

# FEDERAL REGISTER

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Washington, Thursday, July 3, 1941

## The President

### EXECUTIVE ORDER

**AUTHORIZING THE CONTINUANCE IN EMPLOYMENT OF PERSONS EMPLOYED BY THE OFFICE OF GOVERNMENT REPORTS ON JUNE 30, 1941, AND THE CONFERRING OF A COMPETITIVE CLASSIFIED CIVIL SERVICE STATUS UPON SUCH EMPLOYEES**

By virtue of authority vested in me by paragraph Eighth of subdivision SECOND of section 2 of the Civil Service Act (22 Stat. 403, 404), it is hereby ordered as follows:

**SECTION 1.** The Director of the Office of Government Reports is authorized to continue in employment those persons employed in the Office of Government Reports on June 30, 1941, provided that all appointments to positions other than those included in Schedules A and B of the Civil Service Rules which are vacant at any time after June 30, 1941, unless filled by promotion or reassignment, shall be filled in accordance with the Civil Service Rules.

**SECTION 2.** Any person continued in employment under the provisions of section 1 of this order shall on January 1, 1942, if still in such employment, be entitled to acquire a competitive classified civil service status in accordance with the provisions of section 6 of Civil Service Rule II.

**SECTION 3.** The provisions of this order shall extend to any person who has left or who leaves the employment of the Office of Government Reports for active military or naval service and the Director may recommend such person for a competitive classified status within one year after reinstatement in accordance with the provisions of section 6 of Civil Service Rule II.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,  
June 30, 1941.  
[No. 8811]

[F. R. Doc. 41-4706; Filed, July 1, 1941; 1:45 p. m.]

### EXECUTIVE ORDER

**SUSPENDING CERTAIN STATUTORY PROVISIONS RELATING TO EMPLOYMENT IN THE CANAL ZONE**

By virtue of the authority vested in me by section 3 of the Naval Appropriation Act, 1942, section 2 of the War Department Civil Appropriation Act, 1942, and section 7 of the Military Appropriation Act, 1942, relating to certain kinds of employment in the Canal Zone, and deeming such course to be in the public interest, I hereby suspend, effective July 1, 1941, compliance with the provisions of the said sections during the continuance of the unlimited national emergency proclaimed by Proclamation No. 2487 of May 27, 1941.<sup>1</sup>

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,  
June 30, 1941, 6:30 p. m. E. S. T.  
[No. 8812]

[F. R. Doc. 41-4707; Filed, July 1, 1941; 1:45 p. m.]

### Rules, Regulations, Orders

#### TITLE 17—COMMODITY AND SECURITIES EXCHANGES

##### CHAPTER I—COMMODITY EXCHANGE ADMINISTRATION (INCLUDING COMMODITY EXCHANGE COMMISSION)

###### PART 0—RULES OF PRACTICE

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<sup>1</sup> 6 F.R. 2617.

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By virtue of the authority vested in the Secretary of Agriculture by the Commodity Exchange Act (42 Stat. 998; 49 Stat. 1491; 7 U.S.C., secs. 1-17a), as amended, and in order to carry out the powers vested in the Secretary of Agriculture by the said Act, the following rules of practice to govern proceedings

before the Secretary arising under the said Act are hereby promulgated:

### SUBPART A—RULES OF PRACTICE

§ 0.0 *Scope and applicability of rules of practice.* Sections 0.1-0.22, inclusive, of this part shall apply to the conduct of all disciplinary proceedings as hereinafter defined in paragraph (j) of § 0.2. Sections 0.1, 0.2, and 0.23-0.27, inclusive, of this part shall apply to the conduct of all rule-making proceedings as hereinafter defined in paragraph (k) of § 0.2.\*

§§ 0.0 to 0.27, inclusive, issued under the authority contained in the Commodity Exchange Act, as amended, 42 Stat. 998, 49 Stat. 1491; 7 U.S.C. 1-17a.

§ 0.1 *Meaning of words.* Words in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.\*

§ 0.2 *Definitions.* As used in this subpart, the terms as defined in section 2 of the act shall apply with equal force and effect. In addition, and except as may be provided otherwise herein:

(a) The term "act" means the Commodity Exchange Act, approved September 21, 1922 (42 Stat. 998); as amended June 15, 1936 (49 Stat. 1491); 7 U.S.C. §§ 1-17a, and other legislation supplementary thereto and amendatory thereof;

(b) The term "Department" means the United States Department of Agriculture;

(c) The term "Secretary" means the Secretary of Agriculture or any officer or employee of the Department to whom the Secretary has heretofore lawfully delegated, or to whom the Secretary may hereafter lawfully delegate, the authority to act in his stead;

(d) The term "Administration" means the Commodity Exchange Administration of the Department.

(e) The term "FEDERAL REGISTER" means the publication provided for by the act of July 26, 1935 (49 Stat. 500), and acts supplementary thereto and amendatory thereof;

(f) The term "hearing" means that part of the proceeding which involves the submission of evidence and means either an oral or a written hearing;

(g) The term "party" includes the Secretary in those instances where he is named as a party of record in the proceeding;

(h) The term "complainant" means the party upon whose complaint the proceeding is instituted;

(i) The term "respondent" means the party proceeded against;

(j) The term "disciplinary proceeding" means any proceeding before the Secretary arising under the act, in which proceeding it is required by law that the order or other determination of the Secretary shall be made only after an opportunity for a hearing, and, if a hearing be held, only upon the basis of a record made in the course of such hearing;



(k) The term "rule-making proceeding" means any proceeding before the Secretary arising under subparagraphs (4) and (5) of section 5a of the act;

(l) The term "hearing clerk" means the hearing clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C.;

(m) The term "referee" means any person designated by the Secretary to conduct hearings under the act;

(n) The term "referee's report" means the referee's report to the Secretary, and includes the referee's proposed findings of fact, proposed conclusions, and proposed order.\*

#### Rules Applicable to Disciplinary Proceedings

**§ 0.3 Institution of proceedings—(a) Application to institute proceeding.** Any interested person having any information of any violation of the act, or of any of the regulations promulgated thereunder, by any person (other than a contract market) may file with the Chief of the Administration an application requesting the institution of such proceeding as is authorized under the act. Such application shall be in writing, signed by or on behalf of the applicant, and shall include a short and simple statement of the facts constituting the alleged violation and the name and address of the applicant and the name and address of the person against whom the applicant complains.

(b) *Status of applicant.* The person filing an application as described in paragraph (a) of this section shall have no legal status in the proceeding which may be instituted as a result of the application, except where the applicant may be permitted to intervene therein, in the manner hereinafter provided, or may be called as a witness, and the applicant's identity shall not be divulged by any employee of the Department, except with the applicant's prior consent or upon court order.

(c) *Who may institute.* If, after investigation of the matters complained of in the application described in paragraph (a) of this section, or after investigation made on his own motion, the Secretary has reason to believe that any person (other than a contract market) is violating or has violated any of the provisions of the act, or any of the rules and regulations made pursuant to its requirements, or has manipulated or is attempting to manipulate the market price of any commodity, in interstate commerce, or for future delivery on or subject to the rules of any board of trade,<sup>1</sup> he will institute a proceeding. Proceedings will be instituted only upon complaints issued by the Secretary and will not be instituted upon pleadings filed by private persons.

**§ 0.4 Stipulations and consent orders—(a) Stipulation of compliance.** At

any time prior to the issuance of the complaint in any proceeding, the Secretary, in his discretion, may enter into a stipulation with the prospective respondent, whereby the latter admits the material facts and agrees to discontinue the acts or practices which are intended to be set up as violative of the act. Such stipulations shall be admissible as evidence of such acts and practices in any subsequent proceeding against such person before the Secretary.

(b) *Consent order.* At any time after the issuance of the complaint and prior to the hearing in any proceeding, the Secretary, in his discretion, may allow the respondent to consent to an order. In so consenting, the respondent must submit, for filing in the record, a stipulation or statement in which he admits at least those facts necessary to the Secretary's jurisdiction and agrees that an order may be entered against him. Upon a record composed of the complaint and the stipulation or agreement consenting to the order, the Secretary may enter the order consented to by the respondent, which shall have the same force and effect as an order made after oral hearings.\*

**§ 0.5 Complaints—(a) Filing and service.** All complaints shall be filed with the hearing clerk. The provisions of § 0.22 of this part shall govern the filing, number of copies, and service of complaints.

(b) *Contents.* A complaint shall state briefly and clearly the allegations of fact which constitute a basis for the proceeding and shall specify with particularity the matters or things in issue. Complaints shall not include charges, implied charges, or requirements phrased generally in the words of the act, but the words of the act may be identified and quoted or used in preliminary recitals.

(c) *Amendments.* At any time prior to the close of the hearing, the complaint may be amended; but, in case of an amendment adding new provisions, the hearing shall, at the request of the respondent, be adjourned for a period not exceeding 15 days. Amendments subsequent to the first amendment or subsequent to the filing of an answer by the respondent may be made only with leave of the referee or with the written consent of the adverse party.\*

**§ 0.6 Docket number.** Each proceeding, immediately following its institution, shall be assigned a docket number by the hearing clerk, and thereafter the proceeding shall be referred to by such number.\*

**§ 0.7 Referees—(a) Designation and assignment of referee.** The Secretary will, from time to time, designate employees of the Department to serve as referees in proceedings under the act. No referee shall be assigned to serve in any proceeding who (1) has any pecuniary interest in any matter or business involved in the proceeding, (2) is related within the third degree by blood or mar-

riage to any of the persons involved in the proceeding, or (3) has participated in the investigation preceding the institution of the proceeding or in the determination that it should be instituted or in the preparation of the complaint or in the development of the evidence to be introduced therein.

(b) *Disqualification of referee.* Any party may file with the hearing clerk a timely affidavit of disqualification of the referee which shall set forth with particularity the grounds of alleged disqualification. After such investigation or hearing as the Secretary may deem necessary, he may find the affidavit without merit or may direct that another referee be assigned to the proceeding. Where the affidavit is found without merit, the affidavit, any record made thereon, and the finding and order of the Secretary shall be made a part of the record.

A referee shall ask to be withdrawn from any proceeding in which he deems himself disqualified for any reason.

(c) *Status and conduct of referee.* In the discharge of his duties in connection with the proceeding to which he has been assigned, the referee shall be subject to the direction and control of the Secretary only, although he may avail himself of the advice of the Solicitor on questions of law or procedure. He shall conduct the proceeding in a fair and impartial manner and shall not discuss *ex parte* the merits of the proceedings with any person who is or who has been connected in any manner with the proceeding in an advocative or investigative capacity.

(d) *Powers of referee.* Subject to review by the Secretary as provided elsewhere in these rules of practice, the referee, in any proceeding assigned to him, shall have power to:

- (1) Rule upon motions and requests;
- (2) Set the time and place of hearing, adjourn the hearing from time to time, and change the time and place of hearing;
- (3) Administer oaths and affirmations and take affidavits;
- (4) Issue subpoenas requiring the attendance and testimony of witnesses and the production of books, records, contracts, papers, and other documentary evidence;
- (5) Summon and examine witnesses and receive evidence;
- (6) Take or order the taking of depositions;
- (7) Admit or exclude evidence;
- (8) Hear oral argument on facts or law;
- (9) Do all acts and take all measures necessary for the maintenance of order and efficient conduct of the proceeding.

(e) *Who may act in absence of referee.* In case of the absence, illness, resignation, or death of the referee who has been assigned to a proceeding, the powers and duties to be performed by him under these rules of practice in connection with such proceeding may, subject to the provisions of paragraph (a)

<sup>1</sup> Words in italics quoted from sec. 6 (b) of Commodity Exchange Act; 7 U.S.C. (Supp.) § 9.



of this section, be assigned to any other employee of the Department whom the Secretary shall have designated to serve as a referee in proceedings under the act.\*

**§ 0.8 Intervention.** At any time after the institution of a proceeding, and before it has been submitted to the Secretary for final consideration, the Secretary or the referee may, upon petition in writing and for good cause shown, permit any person to intervene therein. The petition shall state with preciseness and particularity: (a) the petitioner's relationship to the matters involved in the proceeding, (b) the nature of the material he intends to present in evidence, (c) the nature of the argument he intends to make, (d) any other reason that he should be allowed to intervene.\*

**§ 0.9 The answer—(a) Filing and service.** Within 20 days after service of the complaint, the respondent may file, in triplicate, with the hearing clerk an answer, signed by the respondent or his attorney. The answer shall be served upon the complainant, and any other party of record, in the manner provided in § 0.22 of this part.

(b) *Contents.* Such answer should (1) contain a precise statement of the facts which constitute the grounds of defense, and should specifically admit, deny, or explain each of the allegations of the complaint unless respondent is without knowledge, in which case the answer shall so state; or (2) state that the respondent admits all of the allegations of the complaint.

The answer may contain a waiver of hearing.

(c) *Procedure upon admission of facts.* An answer admitting all of the material allegations of fact contained in the complaint shall constitute a waiver of hearing. Upon such admission of facts, the referee, without further investigation or hearing, shall prepare his report, in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint. Unless the parties have waived service of the referee's report, it shall be served upon them in the manner provided in § 0.22 of this part. The parties shall be given an opportunity to file exceptions to the report, to file briefs in support of such exceptions, and to make oral argument thereon to the Secretary. Any request to make oral argument to the Secretary must be filed in the manner and within the time provided in paragraph (d) of § 0.16 of this part.\*

**§ 0.10 Motions and requests—(a) General.** All motions and requests shall be filed with the hearing clerk, except that those made during the course of an oral hearing may be filed with the referee or may be stated orally and made a part of the transcript.

The referee is authorized to rule upon all motions and requests filed or made prior to the filing of his report with the hearing clerk as hereinafter provided.

The Secretary will rule upon all motions and requests filed after that time.

(b) *Motions entertained.* Any motion will be entertained except a motion to dismiss on the pleadings.

The submission or certification of any motion, request, objection, or other question to the Secretary prior to the time when the referee's report is filed with the hearing clerk shall be in the discretion of the referee.\*

**§ 0.11 Oral hearing before referee—(a) Request for oral hearing.** Any party may request an oral hearing on the facts by including such request in the complaint or answer or by a separate request in writing filed with the hearing clerk. Failure by the respondent to request an oral hearing within the time allowed for the filing of the answer shall constitute a waiver of such hearing, and any respondent so failing to request an oral hearing will be deemed to have agreed that the proceeding may be decided upon a record formed under the shortened procedure provided for in § 0.17 of this part.

Waiver of oral hearing shall not be deemed to be a waiver of the right to make oral argument before the Secretary upon exceptions to the referee's report. Such argument will be allowed in accordance with the provisions of § 0.19 of this part.

(b) *Time and place.* If and when the proceeding has reached the stage where an oral hearing is to be held, the referee, giving careful consideration to the convenience of the parties, shall set a time and place for hearing and shall file with the hearing clerk a notice stating the time and place. If any change in the time or place of the hearing is made, the referee shall file with the hearing clerk a notice of such change, which notice shall be served upon the parties, unless it is made during an oral hearing and made a part of the transcript.

(c) *Appearances—(1) Representation.* In any proceeding, the parties may appear in person or by counsel or other representative. The Secretary, if represented by counsel, shall be represented by an attorney assigned by the Solicitor of the Department.

Persons who appear as counsel or in a representative capacity at a hearing must conform to the standards of ethical conduct required of practitioners before the courts of the United States. Whenever the Secretary finds, after notice and opportunity for hearing, that a person, who is acting or has acted as counsel or representative for another person in any proceeding before the Secretary, is unfit to act as such representative or counsel, he will order that such person be precluded from acting as counsel or representative in any proceeding under the act. The procedure in such case will be governed by the applicable provisions of these rules of practice.

(2) *Failure to appear.* If any party to the proceeding, after being duly notified, fails to appear at the hearing, he shall be deemed to have waived the right to an

oral hearing in the proceeding. In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present shall have an election to present his evidence, in whole or in part, in the form of affidavits or by oral testimony before the referee.

Failure to appear at a hearing shall not be deemed to be a waiver of the right to be served with a copy of the referee's report and to file exceptions and make oral argument before the Secretary with respect thereto, in the manner provided hereinafter.

(d) *Order of proceeding.* Except as may be determined otherwise by the referee, the complainant shall proceed first at the hearing.

(e) *Evidence—(1) In general.* The testimony of witnesses at a hearing shall be upon oath or affirmation administered by the referee and shall be subject to cross-examination.

Any witness may, in the discretion of the referee, be examined separately and apart from all other witnesses except those who may be parties to the proceeding.

The referee shall exclude evidence which is immaterial, irrelevant, or unduly repetitious, or which is not of the sort upon which responsible persons are accustomed to rely.

(2) *Objections.* If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination, he shall state briefly the grounds of such objection, whereupon an automatic exception will follow if the objection is overruled by the referee. The transcript shall not include argument or debate thereon except as ordered by the referee. The ruling of the referee on any objection shall be a part of the transcript.

Only objections made before the referee may subsequently be relied upon in the proceeding.

(3) *Depositions.* The deposition of any witness shall be admitted, in the manner provided in and subject to the provisions of § 0.12 of this part.

(4) *Affidavits.* Except as is otherwise provided in the regulations in this part, affidavits may be admitted only if the evidence is otherwise admissible and the parties agree that affidavits may be used.

(5) *Proof of documents.* A true copy of every written entry in the records of the Department, made by an officer or employee thereof in the course of his official duty, and relevant to the issues involved in the hearing, shall be admissible as prima facie evidence of the facts stated therein, without the production of such officer or employee.

(6) *Exhibits.* Except where the referee finds that the furnishing of copies is impracticable, a copy of each exhibit, in addition to the original, shall be filed with the referee for the use of each other party to the proceeding. The referee shall advise the parties as to the exact number of copies which will be required to be filed and shall make and have noted



on the record the proper distribution of the copies.

(7) *Official notice.* Official notice will be taken of such matters as are judicially noticed by the courts of the United States and of any other matter of technical or scientific fact of established character: *Provided*, That the parties shall be given adequate notice, at the hearing or by reference in the referee's report or tentative order or otherwise, of matters so noticed, and shall be given adequate opportunity to show that such facts are erroneously noticed.

(8) *Offer of proof.* Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof shall consist of a brief statement describing the evidence to be offered. If the evidence consists of a brief oral statement or of an exhibit, it shall be inserted into the transcript *in toto*. In such event, it shall be considered a part of the transcript if the Secretary decides that the referee's ruling in excluding the evidence was erroneous. The referee shall not allow the insertion of such evidence *in toto* if the taking of such evidence will consume a considerable length of time at the hearing. In the latter event, if the Secretary decides that the referee's ruling in excluding the evidence was erroneous, the hearing shall be reopened to permit the taking of such evidence.

(f) *Oral argument before referee.* In disciplinary proceedings, oral argument before the referee shall be allowed unless the referee finds that the denial of such argument will not deprive the parties of an adequate opportunity for oral argument subsequently in the proceeding. Such argument may be limited by the referee to any extent that he finds necessary for the expeditious disposition of the proceeding.

(g) *Transcript.* Copies of the transcript may be obtained upon written application filed with the reporter, and upon payment of fees at the rate provided in the contract between the reporter and the Secretary.\*

§ 0.12 *Depositions*—(a) *Application for taking deposition.* Upon the application of a party to the proceeding, the referee may, at any time after the filing of the complaint, order the taking of testimony by deposition. The application shall be in writing and shall be filed with the hearing clerk and shall set forth: (1) the name and address of the proposed deponent; (2) the name and address of the person (referred to hereinafter in this section as the "officer"), qualified under the regulations in this part to take depositions, before whom the proposed examination is to be made; (3) the proposed time and place of the examination, which should be at least 15 days after the date of the mailing of the application; and (4) the reasons why such deposition should be taken.

(b) *Referee's order for taking deposition.* If the referee is satisfied that good

cause for taking the deposition is present, he may order its taking. The order shall be filed with the hearing clerk and shall be served upon the parties and shall state: (1) the time and place of the examination (which shall not be less than 10 days after the filing of the order); (2) the name of the officer before whom the examination is to be made; (3) the name of the deponent. The officer and the time and place need not be the same as those suggested in the application.

(c) *Qualifications of officer.* The deposition may be taken before any judge of any court of the United States, or any United States commissioner, or any clerk of a district court, or any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties, nor interested in the event of the proceeding.\*

(d) *Procedure on examination.* The deponent shall be examined under oath or affirmation and shall be subject to cross-examination. The testimony of the deponent shall be recorded by the officer or by some person under his direction and in his presence. In lieu of oral cross-examination, parties may transmit written cross-interrogatories to the officer prior to the examination and the officer shall propound such cross-interrogatories to the deponent.

The applicant must arrange for the examination of the witness either by oral examination or by written interrogatories. If it is found by the referee, upon the protest of a party to the proceeding, that such party has his residence and his place of business more than 100 miles from the place of the examination and that it would constitute an undue hardship upon such party to be represented at the examination, the applicant will be required to conduct the examination by means of interrogatories. When the examination is conducted by means of interrogatories, copies of the interrogatories shall be served upon the other parties to the proceeding at least five days prior to the date set for the examination, and the other parties shall be afforded an opportunity to file with the officer cross-interrogatories at any time prior to the time of the examination.

(e) *Signature by witness.* The transcript of the deposition shall be read to or by the deponent, unless such reading is waived by the parties and the deponent. Any changes which the deponent wishes to make shall be entered upon the deposition by the officer, with a statement of the reasons given by the deponent for such changes. The deposition shall be signed by the deponent unless

the parties by stipulation waive such signing, or unless the deponent is ill or cannot be found or refuses to sign. If the deponent does not sign, the officer shall sign and shall state on the record the reason why the deponent did not sign. In such case the deposition shall be as valid as though signed by the deponent, unless the referee finds that the reason given by the deponent for his refusal to sign requires rejection of the deposition in whole or in part.

(f) *Certification by officer.* The officer shall certify on the deposition that the deponent was duly sworn by him and that the deposition is a true record of the deponent's testimony. He shall then securely seal the deposition, together with two copies thereof, in an envelope and mail the same by registered mail to the hearing clerk.

(g) *Use of depositions.* A deposition ordered and taken in accord with the provisions of this section may be used in a proceeding if the referee finds that the evidence is otherwise admissible and (1) that the witness is dead; or (2) that the witness is at a greater distance than 100 miles from the place of hearing, unless it appears that the absence of the witness was procured by the party offering the deposition; or (3) that the witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or (4) that the party offering the deposition has endeavored but has been unable to procure the attendance of the witness by subpoena; or (5), in any event, upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interests of justice and with due regard to the importance of presenting the testimony orally before the referee, to allow the deposition to be used. If any part of a deposition is put in evidence by a party, any other party may require the production of the remainder, or any other portion, of the deposition.\*

§ 0.13 *Subpenas*—(a) *Issuance of subpenas.* The attendance of witnesses and the production of documentary evidence from any place in the United States on behalf of any party to the proceeding may, by subpoena, be required at any designated place of hearing. Subpenas may be issued by the Secretary or by the referee, upon a reasonable showing by the applicant of the grounds, necessity, and reasonable scope thereof.

(b) *Application for subpoena duces tecum.* Subpenas for the production of documentary evidence, unless issued by the referee upon his own motion, shall be issued only upon a verified written application. Such application shall specify, as exactly as possible, the documents desired and shall show their competency, relevancy, and materiality and the necessity of their production.

(c) *Service of subpenas.* Subpenas may be served (1) by a United States Marshal or his deputy, or (2) by any other person who is not less than 18 years of age, or (3) by registering and mailing a copy of the subpoena addressed

\* Words in italics quoted from the Interstate Commerce Act as amended; 49 U.S.C. sec. 12; which is made applicable to proceedings under the Commodity Exchange Act by sec. 6 (b) of the Commodity Exchange Act, 7 U.S.C. (Supp.) § 9.



to the person to be served at his or its last known principal place of business or residence. Proof of service may be made by the return of service on the subpoena by the United States Marshal or his deputy; or, if served by an individual other than a United States Marshal or his deputy, by an affidavit of such person, stating that he personally served a copy of the subpoena upon the person named therein; or, if service was by registered mail, by an affidavit made by the person mailing the subpoena that it was mailed as provided herein and by the signed return post-office receipt: *Provided*, That where the subpoena is issued on behalf of the Secretary, the return receipt without an affidavit of mailing shall be sufficient proof of service. In making personal service, the person making service shall leave a copy of the subpoena with the person subpoenaed; the original, bearing or accompanied by the required proof of service, shall be returned to the official who issued the same.\*

§ 0.14 *Fees of witnesses.* Witnesses summoned before the referee or before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken, and the persons taking the same, shall be entitled to the same fees as are paid for like services in the courts of the United States. Fees shall be paid by the party at whose instance the witness appears or the deposition is taken.\*

§ 0.15 *Prehearing conferences.* In any proceeding in which it appears that such procedure will expedite the proceeding, the referee, at any time prior to the commencement of the oral hearing, may request the parties or their counsel to appear at a conference before him to consider (a) the simplification of issues; (b) the necessity or desirability of amendments to pleadings; (c) the possibility of obtaining stipulations of fact and of documents which will avoid unnecessary proof; (d) the limitation of the number of expert or other witnesses; and (e) such other matters as may expedite and aid in the disposition of the proceeding. No transcript of such conference shall be made, but the referee shall prepare and file for the record a written summary of the action taken at the conference, which shall incorporate any written stipulations or agreements made by the parties at the conference or as a result of the conference. If the circumstances are such that a conference is impracticable, the referee may request the parties to correspond with him for the purpose of accomplishing any of the objects set forth in this section. The referee shall forward copies of letters and documents to the parties as the circumstances require. Correspondence in such negotiations shall not be a part of the record, but the referee shall submit a written summary for the record if any action is taken.\*

§ 0.16 *The referee's report—(a) Filing the transcript of evidence.* As soon as practicable after the close of the hearing, the reporter shall transmit to the hearing clerk the transcript of the testimony and the exhibits introduced in evidence at the hearing, except such portions of the transcript and exhibits as shall have been delivered to the referee. The hearing clerk will advise each party to the proceeding as to the date on which the transcript was filed.

(b) *Suggested findings of fact, conclusions, and orders.* Within 10 days after the transcript has been filed with the hearing clerk, as provided in paragraph (a) of this section, each party may file with the hearing clerk suggested findings of fact, conclusions, and orders, based solely upon the evidence of record, and briefs in support thereof.

(c) *Referee's report.* The referee, within a reasonable time after the termination of the period allowed for the filing of suggested findings of fact, conclusions, and orders, and briefs in support thereof, shall prepare, upon the basis of the evidence received at the hearing, and shall file with the hearing clerk, his report, a copy of which shall be served by the hearing clerk upon each of the parties.

(d) *Exceptions.* Within 20 days after receipt of the referee's report, the parties may file exceptions to the report. Any party who desires to take exception to any matter set out in the report shall transmit his exceptions in writing to the hearing clerk, referring to the relevant pages of the transcript, and suggesting a corrected finding of fact, conclusion, or order. Within the same period of time, each party shall transmit to the hearing clerk a brief statement in writing concerning each of the objections taken to the action of the referee at the hearing, as set out in § 0.11 of this part, upon which the party wishes to rely, referring, where relevant, to the pages of the transcript. A party, if he files exceptions or a statement of objections, shall state in writing whether he desires to make an oral argument thereon before the Secretary; otherwise, he shall be deemed to have waived such oral argument.\*

§ 0.17 *The shortened procedure—(a) Consent of parties.* Whenever it appears to the referee who is assigned to a proceeding that the proceeding can be more expeditiously handled under the informal procedure provided for in this section, he shall suggest to the parties that they consent to the use of such procedure. Except where oral hearing has been waived by failure to request it in proper time or otherwise, parties are free to consent to such procedure if they choose; declination of consent will not affect or prejudice the rights or interests of any party. A party, if he has not waived oral hearing, may consent to the use of the shortened procedure on the condition that the statements of fact be submitted in the form of depositions

rather than affidavits. In such case, if the other parties agree, depositions shall be required to be filed in lieu of affidavits. If any party who has not waived oral hearing does not consent to the use of the shortened procedure, the proceeding will be set for oral hearing. The request that the shortened procedure be used need not originate with the referee; any party may address a request to the referee asking that the shortened procedure be used. The referee, in his suggestion to the parties, will set a short period of time in which the parties may indicate their consent to the shortened procedure; at the end of that period, the referee will notify the parties that the shortened procedure will or will not be used. All requests, suggestions, and notices mentioned in this section shall be filed with the hearing clerk.

(b) *Complainant's opening statement.* Within 20 days after receipt of notice that the shortened procedure will be used, the complainant shall file with the hearing clerk, in triplicate, in support of the complaint, an opening statement of the facts. A copy of such document shall be served promptly by the hearing clerk upon the respondent.

(c) *Respondent's answering statement.* Within 20 days after receipt of the complainant's opening statement, the respondent may file with the hearing clerk, in triplicate, in support of his answer, an answering statement of the facts. A copy of the answering statement shall be served promptly by the hearing clerk upon the complainant.

(d) *Complainant's statement in reply.* Within 10 days after receipt of the answering statement, the complainant may file with the hearing clerk, in triplicate, a statement in reply, which shall be confined strictly to replying to the facts and arguments set forth in the answering statement.

(e) *Contents of statements.* As used in this section, the term "statement" includes (1) statements of fact signed and sworn to by persons having knowledge of those facts; (2) documents filed as a part of the proof of the alleged facts (which documents shall be properly identified by verified statements in the statement filed or otherwise authenticated in such a manner that they would be admissible in evidence at an oral hearing under the rules in this part); and (3) briefs containing argument to sustain the contentions of the party submitting the statement. When practicable, the documents which constitute the record of any transaction in dispute should be made a part of the statement.

(f) *Verification.* Any facts stated in the statement must be sworn to (before a person legally authorized to administer oaths or before a person designated by the Secretary for the purpose) by a person who states in the affidavit that he has actual knowledge of the facts. Except under unusual circumstances, which shall be set forth in the affidavit, any



such person shall be one who would appear as a witness if an oral hearing were held. The original of each document must show the signature, capacity, and impression seal (if the officer is required by law to have a seal) of the officer administering the oath and the date thereof. Copies must bear a notation that the original shows the data required in this respect. If a party elects to do so, he may file his statement of facts in the form of depositions rather than affidavits. Depositions filed under the shortened procedure, whether filed as a result of a requirement in the consent to the shortened procedure or voluntarily, shall conform to the provisions set forth in § 0.12 of this part.

(g) *Stipulations.* In addition to or in lieu of such statements, the parties may file with the hearing clerk stipulations of fact signed by the parties or their representatives. Such stipulations shall become a part of the record. The stipulations must be filed with the hearing clerk within 20 days after notice that the shortened procedure will be used; or, if the complainant's opening statement is filed, within 20 days after the filing of such statement; or, if an answering statement is filed, within 15 days after the filing thereof; or, if a statement in reply is filed, within 15 days after the filing thereof.

(h) *Waiver of right to file.* Failure to file, within the time prescribed, any statement or stipulation required or authorized under this section shall constitute a waiver of the right to file such statement or stipulation. In such case, the referee may prepare his report and the Secretary may make the final determination upon the evidence contained in the record at the time of such failure to file, except that no determination, other than dismissal of the proceeding, shall be made if the complainant fails to file an opening statement of the facts.

(i) *Referee's report under the shortened procedure.* Except as otherwise may be directed by the referee, the filing of the complainant's statement in reply will conclude the presentation of evidence. The referee will thereupon file with the hearing clerk a notice that the parties may file suggested findings of fact, conclusions, and orders within 10 days after service of such notice. Upon the expiration of the period set for the filing of suggested findings, conclusions, and orders, the referee will prepare his report, and the same procedure shall be followed thereafter as in proceedings where an oral hearing has been held.

(j) *Assignment for oral hearing.* At the request of any party or upon the referee's own motion, the proceeding shall be set for oral hearing at any stage of the proceeding prior to the filing of the referee's report: *Provided*, That, where the party making such request has waived oral hearing by failure to request it in proper time, as provided in paragraph (a) of § 0.11 of this part, the assignment for oral hearing shall be in the discretion of the referee.\*

§ 0.18 *Transmittal of record.* The hearing clerk, immediately following the period allowed for the filing of exceptions, shall transmit to the Secretary the record of the proceeding. Such record shall include: the pleadings; motions and requests filed, and rulings thereon; the transcript of the testimony taken at the hearing, together with the exhibits filed therein; any statements filed under the shortened procedure; any documents or papers filed in connection with prehearing conferences; such suggested findings of fact, conclusions, and orders, and briefs in support thereof, as may have been filed in connection with the hearing; the referee's report; and such exceptions, statements of objections, and briefs in support thereof, as may have been filed in the proceeding.\*

§ 0.19 *Argument before Secretary—*

(a) *Oral argument.* Unless a party has included in his exceptions a request for oral argument or has filed a separate request for oral argument prior to the expiration of the last date for filing such exceptions, he shall be deemed to have waived his right to such oral argument.

(b) *Briefs.* The parties may file written briefs either in addition to oral argument or in lieu thereof.

(c) *Scope of argument.* Except where the Secretary determines that argument on additional issues would be helpful, argument, whether oral or on brief, shall be limited to the issues raised by the exceptions and statement of objections. If the Secretary determines that additional issues should be argued, counsel for the parties shall be given reasonable notice of such determination, so as to permit preparation of adequate argument on all the issues to be argued.\*

§ 0.20 *Preparation and issuance of order—*(a) *Preparation of order.* As soon as practicable after the receipt of the record from the hearing clerk, or, in case oral argument was had, as soon as practicable thereafter, the Secretary, upon the basis of and after due consideration of the record, shall prepare the order in the proceeding. If an oral argument was held, the order shall be prepared by and shall be issued over the signature of the official who heard such oral argument, unless the parties shall consent to a different arrangement. At no stage of the proceeding between its institution and the issuance of the order shall the Secretary discuss *ex parte* the merits of the proceeding with any person who is connected with the proceeding in an advocative or an investigative capacity, or with any representative of such person: *Provided, however*, That the Secretary may discuss the merits of the case with such a person if all parties to the proceeding, or their representatives, have been given an opportunity to be present. Any memorandum or other communication addressed to the Secretary, during the pendency of the proceeding, and relating to the merits thereof, by, or on behalf of, any party shall be regarded as argument made in the proceeding and shall be filed with the hearing clerk, who

shall serve a copy thereof upon the opposite party to the proceeding, and opportunity shall be given the opposite party to file a reply thereto.

(b) *Issuance of order.* The order, prepared as described in paragraph (a) of this section, shall be issued and served upon the parties and upon all contract markets as the final order in the proceeding without further procedure: *Provided*, That, if the terms of the order differ substantially from those proposed in the report of the referee, the Secretary may, if he deems it advisable to do so, direct that a copy of the order be served upon the parties as a tentative order; and, in such event, opportunity shall be given the parties to file exceptions thereto and written arguments or briefs in support of such exceptions. In such case, if no exceptions are filed within 20 days following the service of the tentative order, it shall be issued and served as the final order in the proceeding.\*

§ 0.21 *Applications for reopening hearings; for rehearings or rearguments of proceedings; or for reconsideration of orders—*(a) *Petition requisite—*(1) *Filing; service.* An application for reopening the hearing to take further evidence, or for rehearing or reargument of the proceeding, or for reconsideration of the order must be made by petition to the Secretary filed with the hearing clerk, who immediately shall notify and serve a copy thereof upon the other party to the proceeding. Every such petition must state specifically the grounds relied upon.

(2) *Petitions to reopen hearings.* A petition to reopen the hearing for the purpose of taking additional evidence may be filed at any time prior to the issuance of the order. Every such petition must state briefly the nature and purpose of the evidence to be adduced, and must show that such evidence is not merely cumulative.

(3) *Petitions to rehear or reargue proceedings, or to reconsider orders.* A petition to rehear or reargue the proceeding or to reconsider the order must be filed within 15 days after the date of the service of the order. Every such petition must state specifically the matters claimed to have been erroneously decided and alleged errors must be briefly stated.

(b) *Procedure for disposition of petitions.* Within 20 days following the service of any petition provided for in this section, the other party to the proceeding shall file with the hearing clerk an answer thereto. As soon as practicable thereafter, the Secretary shall announce the decision whether to grant or to deny the petition. Unless the Secretary shall determine otherwise, operation of the order shall not be stayed pending the decision whether to grant or to deny the petition. In the event that any such petition is granted by the Secretary, the applicable rules of practice, as set out elsewhere herein, shall be followed. A person filing a petition under this section shall be regarded as the complainant, although he shall be referred to as the complainant or respondent, depending



upon his designation in the original proceeding.\*

**§ 0.22 Filing; service; extensions of time; additional time for filing; and computation of time—(a) Filing; number of copies.** Except as is provided otherwise herein, all documents or papers required or authorized by these rules to be filed with the hearing clerk shall be filed in triplicate: *Provided*, That, where there are more than two parties to the proceeding, a sufficient number of copies shall be filed so as to provide for service upon all the parties to the proceeding. Any document or paper, required or authorized under these rules to be filed with the hearing clerk, shall, during the course of an oral hearing, be filed with the referee.

**(b) Service; proof of service.** Copies of all such papers shall be served upon the parties by the hearing clerk, by the referee, or by some other employee of the Department or by a United States Marshal or his deputy. Service shall be made either (1) by delivering a copy of the document or paper to the individual to be served or to a member of the partnership to be served or to the president, secretary, or other executive officer or any director of the corporation, organization, or association to be served, or to the attorney or agent of record of such individual, partnership, corporation, organization, or association; or (2) by leaving a copy of the document or paper at the principal office or place of business of such individual, partnership, corporation, organization, or association, or of his or its attorney or agent of record; or (3) by registering and mailing a copy of the document or paper, addressed to such individual, partnership, corporation, organization, or association, or to his or its attorney or agent of record, at his or its last known principal office, place of business, or residence. Proof of service hereunder shall be made by the affidavit of the person who actually made the service, provided that, if the service be made by registered mail, as outlined in (3) above, proof of service shall be made by the return post-office receipt. The affidavit or post-office receipt contemplated herein shall be filed with the hearing clerk, and the fact of filing thereof shall be noted on the docket of the proceeding.

**(c) Extensions of time.** The time for the filing of any document or paper required or authorized under these rules to be filed may be extended by the referee (before the referee's report is filed) or by the Secretary (after the referee's report is filed), if request for such extension of time is made prior to or on the final date allowed for such filing, and if, in the judgment of the referee or the Secretary, as the case may be, after notice to and consideration of the views of the other party, there is good reason for the extension.

**(d) Effective date of filing.** Any document or paper required or authorized

under these rules to be filed, shall be deemed to be filed at the time when it reaches the Department of Agriculture in Washington, D. C.; or, if authorized to be filed with any officer or employee of the Department at any place outside the District of Columbia, it shall be deemed to be filed at the time when it reaches the office of such officer or employee.

**(e) Additional time for filing.** The time for the filing of any document or paper required or authorized under these rules to be filed shall be five days longer when the party resides or has his or its principal place of business at any place west of 104° west longitude.

**(f) Computation of time.** Sundays and holidays shall be included in computing the time allowed for the filing of any document or paper: *Provided*, That, when such time expires on a Sunday or legal holiday, such period shall be extended to include the next following business day.\*

#### *Rules of Practice Applicable to Rule-Making Proceedings*

**§ 0.23 Requests for promulgation, amendment, or rescission of regulations.** Any interested person may file with the Chief of the Administration a request that an order of the Secretary, promulgating a regulation under paragraphs (4) or (5) of section 5a of the act, should be promulgated, amended, or rescinded. Such request shall be in writing, signed by or on behalf of the person making the request, and shall contain the alleged reasons for the promulgation, amendment, or rescission of the order. No right to a hearing shall accrue by virtue of the filing of such a request.\*

**§ 0.24 Status of persons requesting promulgation, amendment, or rescission of regulations.** No person who requests the promulgation, amendment, or rescission of any regulation, as provided in § 0.23, shall have a legal status in any proceeding growing out of such request except that he may appear and testify and may file statements in any such proceeding in accordance with the provisions of the rules in this part.\*

**§ 0.25 Notice of hearing.** At least 10 days prior to any public hearing held in a rule-making proceeding, unless the Secretary shall determine that an emergency exists which requires a shorter period of notice, notice of such hearing shall be published in the *FEDERAL REGISTER* and shall be sent to all persons known to be interested in the proposed regulation. The notice shall state the time and place of hearing and shall contain one or more of the following:

(a) The exact text or a summary thereof of proposed findings, conclusions, and order;

(b) A summary of the results of any investigation made, or conference held in anticipation of the hearing;

(c) A statement of the issues to be considered at the hearing, insofar as such issues may be known at the time of issuance of the notice.\*

**§ 0.26 Conduct of hearing—(a) Presiding officer.** Each such hearing shall be presided over by the Chief of the Administration, or by an employee of the Administration whom he shall designate, or by such other official or employee of the Department as the Secretary may designate for the purpose. The hearing shall be conducted in such a way as to afford to interested persons a reasonable opportunity to be heard on matters relevant to the issues involved and so as to obtain a clear and orderly record.

**(b) Continuance of hearing.** Each such hearing shall be held at the time and place set forth in the notice of hearing, but may at such time and place be continued by the presiding officer from day to day or adjourned to a later date or to a different place without notice other than the announcement thereof at the hearing.

**(c) Order of proceeding.** At the commencement of the hearing, the presiding officer shall read the notice of hearing and shall then outline briefly the procedure to be followed. Evidence shall then be received with respect to the matters specified in the notice of hearing in such order as the presiding officer shall prescribe.

**(d) Submission of evidence.** All interested persons shall be given reasonable opportunity to offer evidence with respect to the matters specified in the notice of hearing. Every witness shall, before proceeding to testify, be sworn, after which he shall state his name, address, and whom he represents at the hearing and shall give such other information respecting his appearance as the presiding officer may request. The presiding officer shall confine the evidence to the questions before the hearing but shall not apply the technical rules of evidence. Affidavits as to relevant facts may be admitted in evidence at the hearing. Every witness shall be subject to questioning by the presiding officer or by any other representative of the Department, but cross-examination by private persons shall not be permitted, except when the presiding officer expressly permits it.

**(e) Transcript of the evidence.** Testimony given at the hearing shall be reported verbatim. All supporting written statements, charts, tabulations, or similar data offered in evidence at the hearing, and which are deemed by the presiding officer to be authentic and relevant, shall be numbered as exhibits and received in evidence and made a part of the record. Unless the presiding officer finds that the furnishing of copies is impracticable, two copies of the exhibits shall be submitted and in type-written, printed, or mimeographed form. If sufficient copies are not available, the presiding officer may have any exhibit read in evidence or may require additional copies to be furnished within a specified time.

**(f) Written arguments.** The presiding officer shall announce at the hearing a reasonable period within which in-



interested persons may file with him written arguments based on the evidence received at the hearing. Written arguments will not be accepted unless an original and two copies are filed. The period for filing written arguments may be extended by the presiding officer for good cause.

(g) *Copies of the record.* Any person desiring a copy of the transcript of testimony or of any written exhibit or written argument shall be entitled thereto upon written application filed with the reporter, and upon payment of fees at the rate provided in the contract between the reporter and the Secretary.\*

§ 0.27 *Preparation and issuance of order—(a) Preparation of proposed final order.* Within a reasonable period of time after the hearing, the presiding officer, assisted by such employees of the Administration and of the Office of the Solicitor as the Chief of the Administration and the Solicitor, respectively, may direct, shall prepare such proposed final order as is appropriate and practicable. Such order shall include findings of fact and conclusions based thereon, but the findings of fact need not be based solely upon the testimony or exhibits received in evidence at the hearing.

(b) *Submission of proposed final order to the Secretary.* Immediately upon completion of its preparation, the proposed final order shall be submitted by the presiding officer to the Secretary for approval and signature. The proposed final order shall be accompanied by a copy of the transcript and of any exhibits that may have been introduced, and by a memorandum containing a summary of the evidence contained in the record and of such other factual data upon which the findings of fact in the proposed final order were based.

(c) *Tentative issuance of proposed final order.* The Secretary may, if he deems it advisable to do so, issue the proposed final order as a tentative order. In such event, the tentative order shall be published in the FEDERAL REGISTER, and interested persons who appeared at the hearing shall be given a reasonable opportunity to file exceptions to the tentative order and to file briefs in support of such exceptions.

(d) *Publication of the final order.* The full text of the final order in any rule-making proceeding shall be published in the FEDERAL REGISTER, and a copy of the order shall be sent to each contract market.

The rules of practice in this part shall become effective August 1, 1941, but shall not be operative as to proceedings then pending in such manner as to prejudice the rights of any parties thereto.

This order supersedes all of that portion of the order of November 18, 1936 (1 F.R. 2003), which pertains to proceedings before the Secretary of Agriculture, arising under the Commodity Exchange Act.\*

No. 129—2

In testimony whereof I have hereunto affixed my signature this 1st day of July 1941, and caused the seal of the Department to be affixed.

[SEAL] PAUL H. APPELEY,  
Acting Secretary of Agriculture.

[F. R. Doc. 41-4738; Filed, July 2, 1941;  
11:42 a. m.]

## TITLE 24—HOUSING CREDIT

### CHAPTER IV—HOME OWNERS' LOAN CORPORATION

[Resolution of June 30, 1941]

#### PART 408—ACCOUNTING DIVISION

##### APPLICATION OF REMITTANCES

Section 408.00 (g)<sup>1</sup> is amended by substituting the words "Accounting Division" for "Accounting Section". (Effective date July 1, 1941)

(Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132 as amended by section 13 of the Act of April 27, 1934, 48 Stat. 647: 12 U.S.C. 1463 (a), (k))

[SEAL] J. FRANCIS MOORE,  
Secretary.

[F. R. Doc. 41-4721; Filed, July 2, 1941;  
10:45 a. m.]

## TITLE 29—LABOR

### CHAPTER IV—CHILDREN'S BUREAU

[Regulation No. 22]

#### PART 402—ACCEPTANCE OF STATE CERTIFICATES

##### AMENDMENT OF REGULATION

JULY 2, 1941.

By virtue of and pursuant to the authority conferred by section 3 (l) of the Fair Labor Standards Act of 1938 (Act of June 25, 1938, ch. 676, 52 Stat. 1060, U. S. Code, title 29, sec. 201), § 402.1, part 402, title 29 of the Codification of Federal Regulations is hereby amended for the purpose of designating California as a State in which State age, employment or working certificates or permits shall have the same force and effect as Federal certificates of age under the Fair Labor Standards Act of 1938, so that said section shall read as follows:

§ 402.1 *Designation of States.* Pursuant to the provisions of § 401.5,<sup>2</sup> I hereby designate the following States as States in which State age, employment, or working certificates or permits shall have the same force and effect as Federal certificates of age under the Fair Labor Standards Act of 1938:

<sup>1</sup> 5 F.R. 7.

<sup>2</sup> 6 F.R. 3148.

<sup>3</sup> Section 5, Child Labor Regulation No. 1, "Certificates of Age," issued October 14, 1938, pursuant to the authority conferred by sections 3 (l) and 11 (b) of the Fair Labor Standards Act of 1938, published in 3 F.R. 2487; republished in 4 F.R. 1361.

Alabama.  
Arizona.  
Arkansas.  
California.  
Colorado.  
Connecticut.  
Delaware.  
District of Columbia.  
Florida.  
Georgia.  
Hawaii.  
Illinois.  
Indiana.  
Iowa.  
Kansas.  
Kentucky.  
Louisiana.  
Maine.  
Maryland.  
Massachusetts.  
Michigan.  
Minnesota.  
Missouri.  
Montana.

Nebraska.  
Nevada.  
New Hampshire.  
New Jersey.  
New Mexico.  
New York.  
North Carolina.  
North Dakota.  
Ohio.  
Oklahoma.  
Oregon.  
Pennsylvania.  
Puerto Rico.  
Rhode Island.  
South Dakota.  
Tennessee.  
Utah.  
Vermont.  
Virginia.  
Washington.  
West Virginia.  
Wisconsin.  
Wyoming.

This designation shall be effective from July 1, 1941, until June 30, 1942, except that the designation of Puerto Rico shall be effective until September 30, 1941, unless this regulation is amended or repealed by regulation hereafter made and published by the Chief of the Children's Bureau. (§ 401.5 *Acceptance of State certificates*, 4 F.R. 1362)

[SEAL] KATHARINE F. LENROOT,  
Chief.

[F. R. Doc. 41-4741; Filed, July 2, 1941;  
11:51 a. m.]

## TITLE 30—MINERAL RESOURCES

### CHAPTER III—BITUMINOUS COAL DIVISION

[Docket No. A-69]

#### PART 332—MINIMUM PRICE SCHEDULE, DISTRICT NO. 12

MEMORANDUM OPINION AND ORDER OF THE ACTING DIRECTOR APPROVING AND ADOPTING EXAMINER'S REPORT AND GRANTING PERMANENT RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 12 CONCERNING MINIMUM PRICES ESTABLISHED FOR COAL DELIVERED TO PURCHASERS HAVING RAIL FACILITIES IN MARKET AREAS 41, 47-50, 52-57, 59-62, 76 AND 77

An original petition pursuant to section 4 II (d) of the Bituminous Coal Act of 1937 having been duly filed on October 2, 1940, by District Board No. 12 requesting the establishment of a price exception permitting the delivery of coal trucked or hauled by a code member to a purchaser having privately owned or leased railway facilities at not less than the established minimum price for rail shipped coal and requiring delivery at not less than such price; and

Temporary relief pending final disposition of this proceeding having been granted by Order of the Director dated February 4, 1941, for the reasons and to the extent therein stated; and

A hearing having been held before a duly designated Examiner of the Division in Des Moines, Iowa, on December 4-7, 1940; and



The Examiner having made Proposed Findings of Fact and Conclusions of Law in this matter, dated March 29, 1941; and

An opportunity having been afforded all parties to file exceptions thereto and supporting briefs, and no such exceptions or supporting briefs having been filed:

The Acting Director hereby determines that the Proposed Findings of Fact and Conclusions of Law of the Examiner in this matter should be approved and adopted as the Findings of Fact and Conclusions of Law of the Acting Director. However, in order to provide for more effective administration of the Price Exception, whose establishment is recommended, the Acting Director finds that it is desirable that all sales under the proposed Exception be reported to the Division. Accordingly, the Price Exception recommended by the Examiner should be amended to provide for the filing of such reports.

It is therefore ordered, That the Proposed Findings of Fact and Conclusions of Law of the Examiner be and they are hereby revised as noted above, and as so revised, approved and adopted as the Findings of Fact and Conclusions of Law of the Acting Director; and

It is further ordered, That § 332.21 (Price instructions and exceptions—(b) Price exceptions) in the Schedule of Effective Minimum Prices for District No. 12 for Truck Shipments be amended by the substitution of the following price exception, to be designated Price Exception 5, in place of the existing Price Exception 5:

Coal trucked or hauled by a code member to a consumer or retail coal dealer having privately owned or leased railway facilities may be sold at the effective minimum price at the point of delivery for all-rail coal, but shall not be sold for less than the price established for such rail delivery.

Not later than the fifteenth day subsequent to the last day of each month, code members who make sales of coal pursuant to this price exception shall file with the Statistical Bureau for District 12 a monthly report showing at least the following: (a) name and location of the producing mine (b) name and address of the consumer (c) tonnage and size of coal sold (d) delivered price of the coal and (e) if the producer delivers coal in his own trucks, the actual cost of delivery; if he does not, the transportation charge paid and the name of the person transporting the coal to the consumer and his business connection, if any, with the producer. Such reports shall be identified as being filed pursuant to the terms of this price exception.

Dated: July 1, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-4717; Filed, July 2, 1941;  
10:24 a. m.]

## TITLE 31—MONEY AND FINANCE:

### CHAPTER I—MONETARY OFFICES

[1941 Department Circular No. 1]

#### PART 129—VALUES OF FOREIGN MONETIES

JULY 1, 1941.

§ 129.4 Calendar year 1941.

(c) Quarter beginning July 1, 1941. Pursuant to section 522, title IV, of the Tariff Act of 1930, reenacting section 25 of the act of August 27, 1894, as amended, the following estimates by the Director of the Mint of the values of foreign monetary units are hereby proclaimed to be the values of such units in terms of the money of account of the United States that are

to be followed in estimating the value of all foreign merchandise exported to the United States during the quarter beginning July 1, 1941, expressed in any such foreign monetary units: *Provided, however*, That if no such value has been proclaimed, or if the value so proclaimed varies by 5 per centum or more from a value measured by the buying rate in the New York market at noon on the day of exportation, conversion shall be made at a value measured by such buying rate, as determined and certified by the Federal Reserve Bank of New York and published by the Secretary of the Treasury pursuant to the provisions of section 522, title IV, of the Tariff Act of 1930.

[SEAL] D. W. BELL,  
Acting Secretary of the Treasury.

Values of foreign monetary units (at par as regards gold units; nongold units have no fixed par with gold)

Country	Monetary unit	Value in terms of U. S. money	Remarks
Argentina Republic.....	Peso.....	\$1.6335	Given valuation is of gold peso. Paper nominally convertible at 44% of face value. Conversion suspended Dec. 16, 1929.
Australia.....	Pound.....	8.2397	Control of gold stocks and exports authorized Dec. 17, 1929.
Belgium.....	Belga.....	.1695	By decree of Mar. 31, 1936. One belga equals 5 Belgian francs. The Anglo-Belgian financial agreement of June 7, 1940, fixed the rate of exchange of the Belgian franc and the franc of the Belgian Congo at 176.625 francs for £1 sterling.
Bolivia.....	Boliviano.....	.6180	Conversion of notes into gold suspended Sept. 23, 1931.
Brazil.....	Milreis.....	.0606	Based upon official rate for milreis in terms of the dollar as announced by the Bank of Brazil. Conversion of Stabilization-Office notes into gold suspended Nov. 22, 1930.
British Honduras.....	Dollar.....	1.6931	Conversion of notes suspended.
Bulgaria.....	Lev.....	.0122	Exchange control established Oct. 15, 1931.
Canada.....	Dollar.....	1.6931	Embargo on export of gold, Oct. 19, 1931; redemption of Dominion notes in gold suspended Apr. 10, 1933.
Chile.....	Peso.....	.2060	Given valuation is of gold peso. Gold pesos are received for conversion at the rate of 4 paper pesos for one gold peso. Conversion of notes suspended July 30, 1931.
China.....	Yuan.....		Silver standard abandoned by decree of Nov. 3, 1935; bank notes made legal tender under Currency Board control; exchange rate for British currency primarily fixed at about 1 s. 2½ d., or about 29½¢ U. S., per yuan.
Hong Kong.....	Dollar.....		Treasury notes and notes of the three banks of issue made legal tender by silver nationalization ordinance of Dec. 5, 1935; exchange fund created to control exchange rate.
Colombia.....	Peso.....	.6714	Obligation to sell gold suspended Sept. 24, 1931. New gold content of .66424 grams of gold 910 fine established by monetary law of Nov. 19, 1938, effective Nov. 30, 1938.
Costa Rica.....	Colon.....	.7879	Conversion of notes into gold suspended Sept. 18, 1914; exchange control established Jan. 16, 1932.
Cuba.....	Peso.....	1.0000	By law of May 25, 1934.
Czechoslovakia.....	Koruna.....	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Denmark.....	Krone.....	1.6931	U. S. money is principal circulating medium.
Dominican Republic.....	Dollar.....	.3386	Conversion of notes into gold suspended Feb. 9, 1932.
Ecuador.....	Sucre.....	8.3692	Conversion of notes into gold suspended Sept. 21, 1931.
Egypt.....	Pound (100 piasters).....		
Estonia.....	Kroon.....	.4537	Conversion of notes into gold suspended June 28, 1933.
Finland.....	Markka.....	.0426	Conversion of notes into gold suspended Oct. 12, 1931.
France.....	Franc.....		Provisions of monetary law of Oct. 1, 1936, providing for gold content of franc, superseded by decree of June 30, 1937, which stated that the gold content of the franc shall be fixed ultimately by a decree adopted by the Council of Ministers. Until issuance of such decree a stabilization fund shall regulate the relationship between the franc and foreign currencies.
Germany.....	Reichsmark.....	.4033	Exchange control established July 13, 1931.
Great Britain.....	Pound Sterling.....	8.2397	Obligation to sell gold at legal monetary par suspended Sept. 21, 1931.
Greece.....	Drachma.....	.0220	Conversion of notes into gold suspended Apr. 26, 1932.
Guatemala.....	Quetzal.....	1.6931	Conversion of notes into gold suspended Mar. 6, 1933.
Haiti.....	Gourde.....	.2000	National bank notes redeemable on demand in U. S. dollars.
Honduras.....	Lempira.....	.8466	Gold exports prohibited Mar. 27, 1931; lempira circulates as equivalent of half of U. S. dollar.
Hungary.....	Pengö.....	.2961	Exchange control established July 17, 1931.
India (British).....	Ruppee.....	.6180	Obligation to sell gold at legal monetary par suspended Sept. 21, 1931.
Indo-China.....	Piaster.....		Piaster pegged to French franc at the rate of 1 piaster=10 French francs; conversion of notes into gold suspended Oct. 2, 1935.
Ireland.....	Pound.....	8.2397	Conversion of notes into gold suspended Sept. 21, 1931.
Italy.....	Lira.....	.0526	New gold content of 46.77 milligrams of fine gold per lira established by monetary law of Oct. 5, 1936.
Japan.....	Yen.....	.8440	Embargo on gold exports Dec. 13, 1931.



Values of foreign monetary units (at par as regards gold units; nongold units have no fixed par with gold)—Continued

Country	Monetary unit	Value in terms of U. S. money	Remarks
Latvia	Lat.		Currency pegged to sterling Sept. 28, 1936, at 2,522 latim=£100; on Sept. 13, 1939, a law was passed providing that if the pound sterling should depreciate by more than 5 percent with respect to the United States dollar, or the Swedish krona, the Bank of Latvia shall take steps to keep the rate of exchange of the lat stable by basing it on gold or some other monetary unit.
Liberia	Dollar	\$1.6931	British money is principal circulating medium.
Lithuania	Litas	.1693	Free export of gold suspended Oct. 1, 1935.
Mexico	Peso		Decree of Aug. 28, 1936, left the monetary unit, the peso, to be later defined by law.
Netherlands and colonies	Guilder (florin)	.6806	Suspension of convertibility of notes into gold and restrictions placed on free gold exports—Sept. 26, 1936; gold export prohibition repealed by decree June 28, 1938; prohibition restored by Act of Nov. 25, 1938. The Anglo-Netherlands financial agreement of June 14, 1940, established the official rate of exchange between the Netherlands Indies guilder and the pound sterling at 7.60 guilders for £1 sterling. By act of September 20, 1940, the Netherlands Indies Volksraad decided, subject to later ratification by law, that the Java Bank shall fix the value of its stocks of gold coin and bullion at Fl. 2.121 per kilogram fine.
Newfoundland	Dollar	1.6931	Newfoundland and Canadian notes legal tender.
New Zealand	Pound	8.2397	Conversion of notes into gold suspended and export of gold restricted, Aug. 5, 1914; exchange regulations Dec. 1931.
Nicaragua	Cordoba	1.6933	Embargo on gold exports Nov. 13, 1931.
Norway	Krone	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Panama	Balboa	1.0000	U. S. money is principal circulating medium.
Paraguay	Peso (Argentine)	1.6335	Paraguayan paper currency is used; exchange control established June 28, 1932.
Persia (Iran)	Rial	.0824	Obligation to pay out gold deferred Mar. 13, 1932; exchange control established Mar. 1, 1936.
Peru	Sol	.4740	Conversion of notes into gold suspended May 18, 1932.
Philippine Islands	Peso	.5000	By act approved Mar. 16, 1935.
Poland	Zloty	.1899	Exchange control established Apr. 27, 1936.
Portugal	Escudo	.0749	Gold exchange standard suspended Dec. 31, 1931.
Rumania	Leu	.0101	Exchange control established May 18, 1932.
Salvador	Colon	.8466	Conversion of notes into gold suspended Oct. 7, 1931.
Spain	Peseta		
Straits Settlements	Dollar	.9613	British pound sterling and Straits dollar and half dollar legal tender.
Sweden	Krona	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Switzerland	Franc		Order of Federal Council enacted Sept. 27, 1936, instructed the Swiss National Bank to maintain the gold parity of the franc at a value ranging between 190 and 215 milligrams of fine gold.
Thailand (Siam)	Baht (Tical)	.7491	Conversion of notes into gold suspended May 11, 1932.
Turkey	Piaster	.0744	100 piasters equal to the Turkish £; conversion of notes into gold suspended 1916; exchange control established Feb. 26, 1930.
Union of South Africa	Pound	8.2397	Conversion of notes into gold suspended Dec. 28, 1932.
Union of Soviet Republics	Chervonetz	8.7123	
Uruguay	Peso	.6583	Conversion of notes into gold suspended Aug. 2, 1914; exchange control established Sept. 7, 1931. New gold content of .585018 grams of pure gold per peso established by monetary law of Jan. 12, 1938.
Venezuela	Bolivar	.3267	Exchange control established Dec. 12, 1936.
Yugoslavia	Dinar	.0298	Exchange control established Oct. 7, 1931.

(Sec. 25, 28 Stat. 552; sec. 403, 42 Stat. 17; sec. 522, 42 Stat. 974; sec. 522, 46 Stat. 739; 31 U.S.C. 372)

[F. R. Doc. 41-4722; Filed, July 2, 1941; 11:17 a. m.]

**TITLE 32—NATIONAL DEFENSE**  
**CHAPTER VI—COUNCIL OF NATIONAL DEFENSE**  
**ORDER AMENDING THE ORDER PROVIDING FOR COORDINATION OF HEALTH, WELFARE, AND RELATED DEFENSE ACTIVITIES**

The order of the Council of National Defense heretofore approved on November 28, 1940,<sup>1</sup> providing for the Coordination of Health, Welfare, and Related Defense Activities is hereby amended as follows:

The duties, functions, and activities of the Health and Medical Committee relating to medical research on problems affecting the national defense are termi-

<sup>1</sup> 5 F.R. 4848.

nated as of such date on which the President shall designate an appropriate agency to assume these duties, functions, and activities. In order that any unfinished business now pending under any contract involving such medical research heretofore entered into by the Health and Medical Committee or by the Federal Security Administrator in his capacity as Coordinator of Health, Welfare, and Related Defense Activities, for and on behalf of the United States, may be duly carried out and completed, such contracts and all accompanying records of the said Committee shall be placed in the custody and control of such office, division, committee, or other agency in the Office for Emergency Management as may be designated by the President

to perform these functions and duties heretofore performed by the Health and Medical Committee and the Federal Security Administrator.

This Order shall take effect when approved by the President.

HENRY L. STIMSON,  
*Secretary of War.*  
 FRANK KNOX,  
*Secretary of the Navy.*  
 HAROLD L. ICKES,  
*Secretary of the Interior.*  
 CLAUDE R. WICKARD,  
*Secretary of Agriculture.*  
 JESSE H. JONES,  
*Secretary of Commerce.*  
 FRANCES PERKINS,  
*Secretary of Labor.*

Approved:

FRANKLIN D. ROOSEVELT  
*The White House, June 28, 1941.*

[F. R. Doc. 41-4745; Filed, July 2, 1941; 12:03 p. m.]

**ORDER REVOKING THE ORDER CREATING THE NATIONAL DEFENSE RESEARCH COMMITTEE**

The order of the Council of National Defense heretofore approved on June 27, 1940,<sup>1</sup> establishing the National Defense Research Committee is hereby revoked as of such date on which the President shall designate an appropriate agency to assume the duties, functions, and activities therein provided. In order that any unfinished business now pending under any contracts heretofore entered into by the said National Defense Research Committee for and on behalf of the United States, may be duly carried on and completed, such contracts and all other records of the said Committee shall be placed in the custody and control of such office, division, committee, or other agency in the Office for Emergency Management as may be designated by the President to perform the functions and duties heretofore performed by the National Defense Research Committee. This order shall take effect when approved by the President.

HENRY L. STIMSON,  
*Secretary of War.*  
 FRANK KNOX,  
*Secretary of the Navy.*  
 HAROLD L. ICKES,  
*Secretary of the Interior.*  
 CLAUDE R. WICKARD,  
*Secretary of Agriculture.*  
 JESSE H. JONES,  
*Secretary of Commerce.*  
 FRANCES PERKINS,  
*Secretary of Labor.*

Approved:

FRANKLIN D. ROOSEVELT  
*The White House, June 28, 1941.*

[F. R. Doc. 41-4746; Filed, July 2, 1941; 12:03 p. m.]

<sup>1</sup> 5 F.R. 2446.



## CHAPTER VII—SELECTIVE SERVICE SYSTEM

[Amendment No. 76]

## SELECTIVE SERVICE REGULATIONS

## AMENDING THE REGULATIONS TO PROVIDE FOR THE SECOND NATIONAL LOTTERY AND THE ASSIGNMENT OF SEQUENCE NUMBERS AND ORDER NUMBERS

By virtue of the provisions of the Selective Training and Service Act of 1940 (54 Stat. 885) and the authority vested in me by the rules and regulations prescribed by the President thereunder, I hereby amend, effective June 9, 1941, the Selective Service Regulations, Volume Three,<sup>1</sup> Section XVI, by deleting Section XVI thereof and substituting therefor the following:

## SECTION XVI—ORDER NUMBERING OF CARDS

Par.

313. The National Lotteries and the National Master Lists.

314. Assignment of order numbers.

315. Order numbering two cards for same registrant.

316. Order numbering cards received late.

313. *The National Lotteries and the National Master Lists.* a. On October 29–30, 1940, the first National Lottery was held in Washington. The list of serial numbers arranged in the order drawn in that lottery was called the "National Master List—First Drawing, October 29–30, 1940," and was issued as DSS Form 169. This National Master List is hereafter referred to as the "First National Master List." It will be used exclusively for determining order numbers of men properly registered on white Registration Cards. It will not be used in any way in determining order numbers of men properly registered on melon-colored Registration Cards.

b. On a day fixed by the Director of Selective Service, a second National Lottery will be held in Washington. A set of serial numbers, each preceded by the letter "S," from "S-1" to include the largest number used by any local board in assigning serial numbers to melon-colored cards, will be drawn by lot. The list of these "S" serial numbers arranged in the order drawn in the second lottery will be called the "Second National Master List" and will be issued as DSS Form 172. The Second National Master List will be used exclusively in assigning sequence numbers and as a basis for assigning order numbers to men properly registered on melon-colored Registration Cards. A copy of the Second National Master List will be sent through the State Director of Selective Service to every local board.

314. *Assignment of order numbers.* a. The order numbers which have been assigned to registrants who were registered before July 1, 1941, shall not be changed.

b. Registrants who were properly registered on white Registration Cards on or after July 1, 1941, shall be assigned

order numbers as late registrants in the manner provided in Paragraph 316a, as amended.

c. Registrants who are properly registered on melon-colored Registration Cards shall be assigned order numbers in the following manner:

1. When the local board receives the Second National Master List, it shall assign sequence numbers to such registrants. The registrant whose serial number appears at the top or nearest the top of the Second National Master List will be given Sequence Number 1, the registrant whose serial number is next closest to the top of the Second National Master List will be given Sequence Number 2, the registrant whose serial number is third closest to the top will be given Sequence Number 3, and so on until each registrant has a sequence number. It will be noted that the sequence numbers are determined in the same manner as order numbers were determined in the first lottery. Sequence numbers must be assigned consecutively; no sequence number shall be skipped. Serial numbers on the Second National Master List which are not held by any registrant of the particular local board shall be crossed off the Second National Master List and ignored. The local board shall mark the sequence number in the first space opposite the applicable serial number on the Second National Master List. These sequence numbers will determine the order in which these new registrants, as between themselves, will be given order numbers, i. e., the registrant with Sequence Number 1 will receive the smallest order number assigned to the group, and the registrant with the largest sequence number will receive the largest order number assigned to the group.

2. Having entered the sequence numbers of its registrants on the Second National Master List, the local board shall assign order numbers to the new registrants and shall determine where such order numbers will be inserted among the order numbers of the old registrants in that portion of the Classification Record (Form 100) which follows the Key Number. To do this, the local board shall first subtract the Key Number (determined in the manner provided in Paragraph 311 b, as amended) from the largest order number assigned by the local board to any registrant properly registered on a white Registration Card received prior to midnight, July 8, 1941; divide the figure so obtained by the largest sequence number assigned to a new registrant properly registered on a melon-colored Registration Card received prior to midnight, July 8, 1941, and using as a yardstick the nearest whole number to the figure so obtained, place the new registrants among the old registrants whose order numbers are listed in the portion of the Classification Record (Form 100) following the Key Number, so that the order number of the new registrant with Sequence Number 1 will be separated from the Key Number

by that number of old registrants' order numbers (including order numbers followed by a letter) equal to the number used as a yardstick and so that each new registrant will be separated from each succeeding new registrant (in the order of their sequence numbers) by the same number of old registrants' order numbers. The order number given each such new registrant shall be the same as the order number of the old registrant immediately above the place where the order number of the new registrant is inserted, and shall be preceded by the letter "S."

3. Example: Assume that in a local board 1740 is the Key Number; 4329 is the largest order number assigned to any registrant properly registered on a white Registration Card received prior to midnight, July 8, 1941, and 216 is the largest sequence number assigned to a new registrant properly registered on a melon-colored Registration Card received prior to midnight, July 8, 1941. Under such circumstances the number to be used as a yardstick is 12, obtained by subtracting 1740 from 4329, leaving 2589; and dividing 2589 by 216, which gives a result of 11.98; 12 is then the nearest whole number and is the number to be used as a yardstick. An example of the procedure to be used by each local board in assigning the first few sequence numbers and order numbers immediately follows this section.

d. The local board shall mark the order numbers thus determined opposite the applicable sequence numbers (and serial numbers) on the Second National Master List, and carefully check to be sure no errors have been made.

e. When the local board is sure that its assignment of order numbers is correct, it shall enter them on the melon-colored Registration Cards in red ink in the place designated.

315. *Order numbering two cards for same registrant.* a. If a local board has two Registration Cards for the same registrant, the card whose serial number comes first in the applicable National Master List shall be given its proper order number. The other card shall be marked "Canceled. Duplicate."

b. If a registrant is registered with two local boards after the applicable National Master List is received, each local board shall put an order number on the card it has just as if he were registered with only one local board.

316. *Order numbering cards received late.* a. The local board may receive a white Registration Card after the second registration day. The local board shall assign to such Registration Card the next largest serial number for the first registration. Then, from the First National Master List, the local board shall find what the registrant's order number would have been if his card had been received earlier. The local board shall give him the order number before the one he would have gotten, and shall add a letter to it. For example, suppose his order number

<sup>1</sup> 5 F.R. 3923.



would have been 84, the local board gives him 83A.

b. In the case of a late registrant properly registered on a melon-colored Registration Card received after midnight, July 8, 1941, the local board shall assign him a serial number for the second registration as provided in Paragraph 305; shall assign him the sequence number he would have received had his Registration Card been received prior to midnight, July 8, 1941; and shall assign to

him the order number immediately preceding the order number assigned to the registrant having the same sequence number. For example: Suppose the registrant having the same sequence number received order number S-123, the local board gives the late registrant receiving the same sequence number S-122A, if the preceding order number is 122.

LEWIS B. HERSHEY,  
Deputy Director.

JUNE 30, 1941.

Serial Numbers Second National Master List	Sequence Numbers	Portion of Local Board Classification Record (Form 100) Excluding the Key Number and all Numbers Smaller than the Key Number	New Order Numbers
S-421		1741	
S-235		1742	
S-2	1	1743	
S-242		1744	
S-260		1745	
S-289		1745A	
S-499		1746	
S-325		1747	
S-369		1748	
S-295		1749	
S-110	2	1750	
S-272		1751	S-1751
S-355		1752	
S-248		1753	
S-302		1754	
S-217		1755	
S-205	3	1756	
S-432		1757	
S-333		1758	
S-254		1759	
S-458		1760	
S-218		1761	
S-372		1762	
S-225		1762A	S-1762A
S-466		1763	
S-172	4	1764	
S-444		1765	
S-312		1766	
S-432		1767	
S-241		1768	
S-314		1769	
S-15	5	1770	
S-226		1771	
S-318		1772	
		1773	
		1774	S-1774
		1775	
		1776	
		1777	
		1778	
		1779	
		1780	
		1781	
		1782	
		1783	
		1784	
		1785	
		1786	S-1786
		1787	
		1788	
		1788A	
		1788E	
		1789	
		1790	
		1791	
		1792	
		1793	
		1794	
		1795	
		1796	S-1796
		1797	
		1798	

[F. R. Doc. 41-4739; Filed, July 2, 1941; 11:49 a. m.]

## CHAPTER IX—OFFICE OF PRODUCTION MANAGEMENT

### SUBCHAPTER B—PRIORITIES DIVISION

[Preference Rating Order No. P-9-d]

#### PART 943—MATERIALS ENTERING INTO THE PRODUCTION OF HEAVY BOMBERS

##### Material Entering Into the Production of Gun Turrets for Heavy Bombers

In the interest of the national defense and pursuant to authority vested in the Director of Priorities, it is hereby ordered:

§ 943.4 Preference rating order. (a) Subject to all the terms, conditions and requirements of this Order, preference rating A-1-b is hereby assigned:

(1) In favor of the Producer (as hereinafter defined), and in favor of each Rated Subcontractor (as hereinafter defined), to deliveries of material entering, directly or indirectly, at any stage of production, into the following Gun Turrets, i. e., Gun Turrets ordered by the United States Army Air Corps for installation in Heavy Bomber Airframes designated as Models B-17, B-24, B-29, and B-32. Always provided, however, That any such material is included in the current Priorities Critical List of the Army and Navy Munitions Board as amended from time to time.

(2) In favor of the Producer to deliveries of material consisting of cutting and other perishable tools and equipment of like nature other than machine tools or similar machinery required in the manufacture of the above specified Gun Turrets.

(b) For the purposes of this Order:

(1) "Defense Orders" means any contracts or orders for the above specified Gun Turrets placed by the Army or Navy, or for the defense of Great Britain, including contracts or orders from other parts of the British Empire for that purpose or any contracts or orders for the above specified Gun Turrets for which the delivery schedule has been approved by The Joint Aircraft Committee.

(2) "Producer" means the person, firm or corporation, or any division or plant thereof, engaged in the production of Gun Turrets for Defense Orders, and to whom a copy of this Order is specifically addressed, and who has accepted the same in the manner in (c) below set forth.

(3) "Supplier" means any individual, firm or corporation holding a contract or order for the delivery of material which enters into the production, directly or indirectly, at any stage of production, of the above specified Gun Turrets by the Producer and in whose favor the preference rating as herein provided has not been extended. When the preference rating herein provided has been extended in favor of a Supplier, and such Supplier has accepted the



same in the manner in (e) below set forth, such Supplier then becomes what is hereinafter called a "Rated Subcontractor".

(c) The Producer, and each Rated Subcontractor, shall, so long as this Order is in effect as to him:

(1) Maintain accurate records of all extensions of such preference ratings hereunder pursuant to this Order, stating the name and address of each Rated Subcontractor to whom such preference rating has been extended; and the kinds, values, and quantities of material covered by each such extension, and dates of delivery thereof; and maintain records, according to sound accounting practices, of inventories and stocks on hand, and contracts and orders on his books, and of schedules of deliveries, required pursuant to such contracts or orders. Such records shall be preserved for at least 1 year after the revocation or expiration of this Order or modifications or amendments thereto.

(2) Furnish information respecting the matters covered by (c) (1), and respecting any other pertinent matters to the Priorities Division, Office of Production Management, from time to time as required by said Division. Until further ordered, such information shall be so furnished on the 15th day of each month for the preceding month as required by Form PD-46,<sup>1</sup> annexed hereto; or on any other form or report which may be approved by the Priorities Division, which shall be sent to the Priorities Division, Office of Production Management, Washington, D. C.; which report *must be sworn* to by an authorized officer or individual of the Producer or Rated Subcontractor furnishing the same, and certified by a Contracting or Procurement Officer, or Inspector of the Army or Navy as provided in said report; or, *in the alternative*, a Producer or Rated Subcontractor shall send to the Priorities Division, Office of Production Management, on the 15th day of each month, copies of all purchase orders to which said preference rating has been applied in the preceding month: *Provided, however*, That such purchase orders contain the following information: Vendor's name, description, unit quantities and dollar value of the material ordered, together with the delivery or delivery schedule thereof. Such purchase orders shall be accompanied by the affidavit of an authorized officer or individual of the Producer or Rated Subcontractor furnishing the same, and a certificate by a Contracting or Procurement Officer or Inspector of the Army or Navy in the form set forth in Form PD-46A,<sup>1</sup> annexed hereto.

(3) Submit, from time to time, to an audit and inspection by representatives of the Division of Priorities respecting matters covered by (c) (1) and (2).

(d) The Director of Priorities will take action to revoke this Order as to any

Producer or Rated Subcontractor who fails to file the report as required in (c) (2) above.

(e) In order to apply said preference rating to the delivery by Suppliers of any material which enters into the production, directly or indirectly, at any stage of production, of the aforesaid Gun Turbines by the Producer, the Producer or Rated Subcontractor shall take the following steps:

(1) Execute a copy of this Order as provided at the end hereof and transmit such copy to the Director of Priorities, and

(2) Execute an additional copy for each Supplier to whose deliveries of such material said preference rating is to apply, which copy *must, in all cases*, be countersigned by a Contracting or Procurement Officer, or Inspector of the Army or Navy in the manner provided at the end of this Order; and furnish such additional copy, so executed and countersigned, to each such Supplier. One such copy furnished to a Supplier of such material by such Supplier to the Producer or Rated Subcontractor by whom it is furnished to him, whether such deliveries are pursuant to one or more Defense Orders, for one or more types of material, or by one or more orders placed at one time or from time to time, but this provision shall not relieve the Producer or Rated Subcontractor from furnishing the regular report provided in (c) (2) above.

(f) This Order, or any extensions thereof, may be revoked, modified or amended by the Director of Priorities at any time as to the Producer or as to any or all Rated Subcontractors. In the event of any such revocation, or upon expiration of this Order by its terms, any deliveries of material already rated pursuant to this Order shall be completed in accordance with said rating, unless the rating has been specifically revoked with respect thereto. No additional applications of such preference rating shall be made to any other deliveries by the Producer and/or Rated Subcontractor affected by said revocation or expiration. Further, in the event or revocation of this Order, the Producer and/or each Rated Subcontractor affected thereby, shall each return to the Priorities Division the copy of this Order whereby the preference rating was assigned or extended in his favor within 3 days of such revocation; and the Director of Priorities may notify all affected Rated Subcontractors and other Suppliers of such revocation. Nothing in this paragraph shall affect any specific *Preference Rating Certificates* issued to the Producer or any Rated Subcontractor independently of this order.

(g) This Order and the assignment of the preference rating herein provided shall take effect on the 30th day of June 1941, and, unless sooner revoked shall expire on the 31st day of December 1941.

(O.P.M. Reg. 3, March 7, 1941, 6 F.R. 1596; E.O. 8629, January 7, 1941, 6 F.R. 191; sec. 2 (a), Public No. 671, 76th Congress)

Issued this 30th day of June 1941.

E. R. STETTINIUS, Jr.,  
Director of Priorities.

FOR EXECUTION BY THE PRODUCER OR RATED  
SUBCONTRACTOR

The undersigned acknowledges receipt of the above Order; accepts the same; agrees to all its terms, conditions and requirements; and promises to perform the requirements of, and to submit to the audits and investigations as provided in, section (c) of said Order.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

(Name of producer or rated  
subcontractor)

By \_\_\_\_\_  
(Authorized officer or individual)

CERTIFICATION BY ARMY OR NAVY CONTRACTING  
OR PROCUREMENT OFFICER OR INSPECTOR

I hereby certify that the Producer, or Rated Subcontractor, identified below has executed a copy of the above Order and has transmitted the same to the Director of Priorities, Office of Production Management, Washington, D. C.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

(Name of producer or rated  
subcontractor)

(Signature of officer or inspector)

[F. R. Doc. 41-4708; Filed, July 1, 1941;  
3:00 p. m.]

[Preference Rating Order No. P-9-e]

PART 943—MATERIALS ENTERING INTO THE  
PRODUCTION OF HEAVY BOMBERS

*Material Entering Into the Production  
of Gun Sights, Bomb Sights and Gun-  
fire Controls for Heavy Bombers*

In the interest of the national defense and pursuant to authority vested in the Director of Priorities, it is hereby ordered:

§ 943.5 *Preference rating order.* (a) Subject to all the terms, conditions and requirements of this Order, preference rating A-1-b is hereby assigned.

(1) In favor of the Producer (as hereinafter defined), and in favor of each Rated Subcontractor (as hereinafter defined), to deliveries of material entering, directly or indirectly, at any stage of production, into the following Gun Sights, Bomb Sights and Gunfire Controls ordered by the United States Army Air Corps for installation in Heavy Bomber Airframes, designated as Models B-17, B-24, B-29 and B-32. *Always provided, however*, That any such material is included in the current Priorities Critical List of the Army and Navy Munitions Board, as amended from time to time.

(2) In favor of the Producer to deliveries of material consisting of cutting and other perishable tools and equipment of like nature other than machine

<sup>1</sup> Filed as part of the original document.



tools or similar machinery required in the manufacture of the above specified Gun Sights, Bomb Sights and Gunfire Controls.

(b) For the purposes of this Order:

(1) "Defense Orders" means any contracts or orders for the above specified Gun Sights, Bomb Sights and Gunfire Controls placed by the Army or Navy, or for the defense of Great Britain, including contracts or orders from other parts of the British Empire for that purpose or any contracts or orders for the above specified Gun Sights, Bomb Sights and Gunfire Controls for which the delivery schedule has been approved by The Joint Aircraft Committee.

(2) "Producer" means the person, firm or corporation, or any division or plant thereof, engaged in the production of Gun Sights, Bomb Sights and Gunfire Controls for Defense Orders, and to whom a copy of this Order is specifically addressed, and who has accepted the same in the manner in (e) below set forth.

(3) "Supplier" means any individual, firm or corporation holding a contract or order for the delivery of material which enters into the production, directly or indirectly, at any stage of production, of the above specified Gun Sights, Bomb Sights and Gunfire Controls by the Producer and in whose favor the preference rating as herein provided *has not* been extended. When the preference rating herein provided *has* been extended in favor of a Supplier, and such Supplier has accepted the same in the manner in (e) below set forth, such Supplier then becomes what is hereinafter called a "Rated Subcontractor".

(c) The Producer, and each Rated Subcontractor, shall, so long as this Order is in effect as to him:

(1) Maintain accurate records of all extension of such preference ratings hereunder pursuant to this Order, stating the name and address of each Rated Subcontractor to whom such preference rating has been extended; and the kinds, values and quantities of material covered by each such extension, and dates of delivery thereof; and maintain records, according to sound accounting practices, of inventories and stocks on hand, and contracts and orders on his books, and of schedules of deliveries, required pursuant to such contracts or orders. Such records shall be preserved for at least 1 year after the revocation or expiration of this Order or modifications or amendments thereto.

(2) Furnish information respecting the matters covered by (c) (1), and respecting any other pertinent matters to the Priorities Division, Office of Production Management, from time to time, as required by said Division. Until further ordered, such information shall be so furnished on the 15th day of each month for the preceding month as required by Form PD-47, annexed hereto; or on any other form of report which may be ap-

proved by the Priorities Division, which shall be sent to the Priorities Division, Office of Production Management, Washington, D. C.; which report *must be sworn* to by an authorized officer or individual of the Producer or Rated Subcontractor furnishing the same, and certified by a Contracting or Procurement Officer, or Inspector of the Army or Navy as provided in said report; or, *in the alternative*, a Producer or Rated Subcontractor shall send to the Priorities Division, Office of Production Management, on the 15th day of each month, copies of all purchase orders to which said preference rating has been applied in the preceding month: *Provided, however*, That such purchase orders contain the following information: Vendor's name, description, unit quantities and dollar value of the material ordered, together with the delivery or delivery schedule thereof. Such purchase orders shall be accompanied by the affidavit of an authorized officer or individual of the Producer or Rated Subcontractor furnishing the same, and a certificate by a Contracting or Procurement Officer or Inspector of the Army or Navy in the form set forth in Form PD-47A, annexed hereto.

(3) Submit, from time to time, to an audit and inspection by representatives of the Division of Priorities respecting matters covered by (c) (1) and (2)

(d) The Director of Priorities will take action to revoke the Order as to any Producer or Rated Subcontractor who fails to file the report as required in (c) (2) above.

(e) In order to apply said preference rating to delivery by Suppliers of any material which enters into the production, directly or indirectly, at any stage of production, of the aforesaid Gun Sights, Bomb Sights and Gunfire Controls by the Producer, the Producer or Rated Subcontractor shall take the following steps:

(1) Execute a copy of this Order as provided at the end hereof and transmit such copy to the Director of Priorities, and

(2) Execute an additional copy for each Supplier to whose deliveries of such material said preference rating is to apply, which copy *must, in all cases*, be countersigned by a Contracting or Procurement Officer, or Inspector of the Army or Navy in the manner provided at the end of this Order; and furnish such additional copy, so executed and countersigned, to each such Supplier. One such copy furnished to a Supplier shall be deemed to cover all deliveries of such material by such Supplier to the Producer or Rated Subcontractor by whom it is furnished to him, whether such deliveries are pursuant to one or more Defense Orders, for one or more types of material, or by one or more orders placed at one time or from time to time, but this provision shall not relieve the Producer or Rated Subcon-

tractor from furnishing the regular report provided in (c) (2) above.

(f) This order, or any extensions thereof, may be revoked, modified or amended by the Director of Priorities at any time as to the Producer or as to any or all Rated Subcontractors. In the event of any such revocation, or upon expiration of this Order by its terms, any deliveries of material already rated pursuant to this Order shall be completed in accordance with said rating, unless the rating has been specifically revoked with respect thereto. No additional applications of such preference rating shall be made to any other deliveries by the Producer and/or Rated Subcontractor affected by said revocation or expiration. Further, in the event of revocation of this Order, the Producer and/or each Rated Subcontractor affected thereby, shall each return to the Priorities Division the copy of this Order whereby the preference rating was assigned or extended in his favor within 3 days of such revocation; and the Director of Priorities may notify all affected Rated Subcontractors and other Suppliers of such revocation. Nothing in this paragraph shall affect any specific *Preference Rating Certificates* issued to the Producer or any Rated Subcontractor independently of this Order.

(g) This Order and the assignment of the preference rating herein provided shall take effect on the 30th day of June 1941, and, unless sooner revoked, shall expire on the 31st day of December, 1941. (O.P.M. Reg. 3, March 7, 1941, 6 F.R. 1596; E.O. 8629, January 7, 1941, 6 F.R. 191; sec. 2 (a), Public, No. 671, 76th Congress)

Issued this 30th day of June 1941.

E. R. STETTINIUS, Jr.,  
Director of Priorities.

FOR EXECUTION BY THE PRODUCER OR RATED  
SUBCONTRACTOR

The undersigned acknowledges receipt of the above Order; accepts the same; agrees to all its terms, conditions and requirements; and promises to perform the requirements of, and to submit to the audits and investigations as provided in, section (c) of said Order.

Executed this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_.

(Name of producer or rated  
subcontractor)

By \_\_\_\_\_  
(Authorized officer or individual)

CERTIFICATION BY ARMY OR NAVY CONTRACTING  
OR PROCUREMENT OFFICER OR INSPECTOR

I hereby certify that the Producer, or Rated Subcontractor, identified below has executed a copy of the above Order and has transmitted the same to the Director of Priorities, Office of Production Management, Washington, D. C.

Dated this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_.

(Name of producer or rated  
subcontractor)

(Signature of officer or inspector)

[F. R. Doc. 41-4709; Filed, July 1, 1941;  
3:00 p. m.]

<sup>1</sup> Filed as part of the original document.



[Preference Rating Order No. P-9-f]

PART 943—MATERIALS ENTERING INTO THE PRODUCTION OF HEAVY BOMBERS

*Material Entering into the Production of Turbo Supercharges for Heavy Bombers*

In the interest of the national defense and pursuant to authority vested in the Director of Priorities, it is hereby ordered:

§ 943.6 *Preference rating order.* (a) Subject to all the terms, conditions and requirements of this Order, preference rating A-1-b is hereby assigned

(1) In favor of the Producer (as hereinafter defined), and in favor of each Rated Subcontractor (as hereinafter defined), to deliveries of material entering, directly or indirectly, at any stage of production, into the following Turbo Supercharges, i. e., Turbo Supercharges ordered by the United States Army Air Corps for installation in Heavy Bomber Airframes designated as Models B-17, B-24, B-29 and B-32. *Always provided, however,* That any such material is included in the current Priorities Critical List of the Army and Navy Munitions Board as amended from time to time.

(2) In favor of the Producer to deliveries of material consisting of cutting and other perishable tools and equipment of like nature other than machine tools or similar machinery required in the manufacture of the above specified Turbo Supercharges.

(b) For the purposes of this Order:

(1) "Defense Orders" means any contracts or orders for the above specified Turbo Supercharges placed by the Army or Navy, or for the defense of Great Britain, including contracts or orders from other parts of the British Empire for that purpose or any contracts or orders for the above specified Turbo Supercharges for which the delivery schedule has been approved by The Joint Aircraft Committee.

(2) "Producer" means the person, firm or corporation, or any division or plant thereof, engaged in the production of Turbo Supercharges for Defense Orders, and to whom a copy of this Order is specifically addressed, and who has accepted the same in the manner in (e) below set forth.

(3) "Supplier" means any individual, firm or corporation holding a contract or order for the delivery of material which enters into the production, directly or indirectly, at any stage of production, of the above specified Turbo Supercharges by the Producer and in whose favor the preference rating as herein provided has not been extended. When the preference rating herein provided has been extended in favor of a Supplier, and such Supplier has accepted the same in the manner in (e) below set forth, such Supplier then becomes what is hereinafter called a "Rated Subcontractor".

(c) The Producer, and each Rated Subcontractor, shall, so long as this Order is in effect as to him:

(1) Maintain accurate records of all extensions of such preference ratings hereunder pursuant to this Order, stating the name and address of each Rated Subcontractor to whom such preference rating has been extended; and the kinds, values, and quantities of material covered by each such extension, and dates of delivery thereof; and maintain records, according to sound accounting practices, of inventories and stocks on hand, and contracts and orders on his books, and of schedules of deliveries, required pursuant to such contracts or orders. Such records shall be preserved for at least 1 year after the revocation or expiration of this Order or modifications or amendments thereto.

(2) Furnish information respecting the matters covered by (c) (1), and respecting any other pertinent matters to the Priorities Division, Office of Production Management, from time to time as required by said Division. Until further ordered, such information shall be so furnished on the 15th day of each month for the preceding month as required by Form PD-48,<sup>1</sup> annexed hereto; or on any other form of report which may be approved by the Priorities Division, which shall be sent to the Priorities Division, Office of Production Management, Washington, D. C.; which report must be sworn to by an authorized officer or individual of the Producer or Rated Subcontractor furnishing the same, and certified by a Contracting or Procurement Officer, or Inspector of the Army or Navy as provided in said report; or, in the alternative, a Producer or Rated Subcontractor shall send to the Priorities Division, Office of Production Management, on the 15th day of each month, copies of all purchase orders to which said preference rating has been applied in the preceding month: *Provided, however,* That such purchase orders contain the following information: Vendor's name, description, unit quantities and dollar value of the material ordered, together with the delivery or delivery schedule thereof. Such purchase orders shall be accompanied by the affidavit of an authorized officer or individual of the Producer or Rated Subcontractor furnishing the same, and a certificate by a Contracting or Procurement Officer or Inspector of the Army or Navy in the form set forth in Form PD-48A,<sup>1</sup> annexed hereto.

(3) Submit, from time to time, to an audit and inspection by representatives of the Division of Priorities respecting matters covered by (c) (1) and (2).

(d) The Director of Priorities will take action to revoke this Order as to any Producer or Rated Subcontractor who fails to file the report as required in (c) (2) above.

(e) In order to apply said preference rating to the delivery by Suppliers of any material which enters into the production, directly or indirectly, at any stage of production, of the aforesaid Turbo Superchargers by the Producer, the Producer or Rated Subcontractor shall take the following steps:

(1) Execute a copy of this Order as provided at the end hereof and transmit such copy to the Director of Priorities, and

(2) Execute an additional copy for each Supplier to whose deliveries of such material said preference rating is to apply, which copy must, in all cases, be countersigned by a Contracting or Procurement Officer, or Inspector of the Army or Navy in the manner provided at the end of this Order; and furnish such additional copy, so executed and countersigned, to each such Supplier. One such copy furnished to a Supplier shall be deemed to cover all deliveries of such material by such Supplier to the Producer or Rated Subcontractor by whom it is furnished to him, whether such deliveries are pursuant to one or more Defense Orders, for one or more types of material, or by one or more orders placed at one time or from time to time, but this provision shall not relieve the Producer or Rated Subcontractor from furnishing the regular report provided in (c) (2) above.

(f) This Order, or any extensions thereof, may be revoked, modified or amended by the Director of Priorities at any time as to the Producer or as to any or all Rated Subcontractors. In the event of any such revocation, or upon expiration of this Order by its terms, any deliveries of material already rated pursuant to this Order shall be completed in accordance with said rating, unless the rating has been specifically revoked with respect thereto. No additional applications of such preference rating shall be made to any other deliveries by the Producer and/or Rated Subcontractor affected by said revocation or expiration. Further, in the event of revocation of this Order, the Producer and/or each Rated Subcontractor affected thereby, shall each return to the Priorities Division the copy of this Order whereby the preference rating was assigned or extended in his favor within 3 days of such revocation; and the Director of Priorities may notify all affected Rated Subcontractors and other Suppliers of such revocation. Nothing in this paragraph shall affect any specific *Preference Rating Certificate* issued to the Producer or any Rated Subcontractor independently of this Order.

(g) This Order and the assignment of the preference rating herein provided shall take effect on the 30th day of June 1941, and, unless sooner revoked, shall expire on the 31st day of December 1941. (O.P.M. Reg. 3, March 7, 1941,

<sup>1</sup> Filed as part of the original document.



6 F.R. 1596; E.O. 8629, January 7, 1941,  
6 F.R. 191; sec. 2 (a), Public No. 671,  
76th Congress)

Issued this 30th day of June 1941.

E. R. STETTINIUS, Jr.,  
Director of Priorities.

FOR EXECUTION BY THE PRODUCER OR RATED  
SUBCONTRACTOR

The undersigned acknowledges receipt of  
the above Order; accepts the same; agrees  
to all its terms, conditions and requirements;  
and promises to perform the requirements of,  
and to submit to the audits and investiga-  
tions as provided in, section (c) of said  
Order.

Executed this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_.

(Name of producer or rated  
subcontractor)

By \_\_\_\_\_  
(Authorized officer or individual)

CERTIFICATION BY ARMY OR NAVY CONTRACTING  
OR PROCUREMENT OFFICER OR INSPECTOR

I hereby certify that the Producer, or Rated  
Subcontractor, identified below has executed  
a copy of the above Order and has transmitted  
the same to the Director of Priorities, Office of  
Production Management, Washington, D. C.

Dated this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_.

(Name of producer or rated  
subcontractor)

(Signature of officer or inspector)

[F. R. Doc. 41-4710; Filed, July 1, 1941;  
3:00 p. m.]

[Preference Rating Order No. P-11]

PART 946—MATERIAL FOR THE PRODUCTION  
OF METAL WORKING EQUIPMENT SPECIFIED  
HEREIN

In the best interests of the National  
Defense and pursuant to authority vested  
in the Director of Priorities, it is hereby  
ordered:

§ 946.1 *Preference rating order.* (a)  
Subject to the terms, conditions, require-  
ments and obligations set forth below,  
Preference Rating \_\_\_\_\_ is hereby as-  
signed in favor of the above-named pro-  
ducer.

(b) For the purposes of this Order:

(1) "Defense Orders" means all con-  
tracts or orders placed with the producer  
for deliveries of the metal working equip-  
ment listed in paragraph (c) (1) (i)  
hereof, which deliveries have been or  
will be assigned a rating of A-10 or higher  
by a Specific Preference Rating Certifi-  
cate by a General Preference Order, or  
by any specific direction of the Director  
of Priorities.

(2) "Person" means any natural per-  
son, firm, or corporation, or other form  
of business enterprise.

(3) "Producer" means a person to  
whom a copy of this Order is specifically  
addressed.

(4) "Subcontractor" means any person  
producing material, at any stage of pro-

duction, which is to enter directly or in-  
directly into the production of the metal  
working equipment listed in paragraph  
(c) (1) (i) hereof, to be delivered by the  
producer in fulfillment of Defense Order.

(5) "Supplier" means any person who  
makes deliveries of material set forth in  
Exhibit A hereof to the producer or to a  
subcontractor.

(6) "Rated Subcontract" means a con-  
tract or order calling for deliveries to  
which the preference rating assigned  
hereby has been applied either by the  
producer or by a subcontractor.

(c) Subject to the provisions of para-  
graphs (c) (1) and (2) hereof, Pref-  
erence Rating is hereby assigned to the  
kinds of material listed on Exhibit A, a  
part hereof.

NOTE: Deliveries of any material listed on  
said Exhibit may have been, or may be, as-  
signed a higher preference rating by contract-  
ing officers or by field officials of the Army or  
Navy, or by the Director of Priorities; in such  
event, such higher preference rating shall be  
controlling.

(1) Said rating may be applied to de-  
liveries of said material required by the  
producer: *Provided, That*

(i) Said material is covered by a con-  
tract or order placed by said producer  
and is to enter into the production of one  
or more of the following kinds of metal  
working equipment: *And provided fur-*  
*ther, That said metal working equipment*  
*is to fulfill Defense Orders.*

(ii) The quantities of material to  
which said rating is applied are not  
greater than necessary for the effective  
operation of said producer's plant in ful-  
fillment of Defense Orders.

(iii) The delivery dates for material  
to which said rating is applied are not  
earlier than necessary to fulfill Defense  
Orders by the time specified in such Or-  
ders or in ratings assigned thereto, and  
all deliveries shall be in accordance with  
carefully planned production schedules.

(iv) The material to which said rating  
is applied cannot be secured in the quan-  
tities or on the delivery dates required  
*except* through the use of said rating.

(2) Said rating may be applied to de-  
liveries of said material to a subcontrac-  
tor, provided that:

(i) Said material is covered by a con-  
tract or order placed by said subcontrac-  
tor and enters into the fulfillment of a  
rated subcontract entered into by the  
producer and the subcontractor.

(ii) The quantities of material to which  
said rating is applied are not greater  
than necessary for the effective operation  
of each such subcontractor's plant for  
the fulfillment of rated subcontracts.

(iii) The delivery dates for material to  
which said rating is applied are not  
earlier than necessary to fulfill rated  
subcontracts by the time specified in such  
subcontracts, and all deliveries shall be  
in accordance with carefully planned  
production schedules.

(iv) The material to which such rating  
is applied cannot be secured in the quan-  
tities or on the delivery dates required  
*except* through the use of said rating.

(d) A producer, or a subcontractor, in  
order to apply the preference rating as-  
signed hereby to deliveries of material by  
any particular supplier, shall take the  
following steps:

(1) Execute a copy of this Order as  
provided at the end hereof, and transmit  
such copy to the Director of Priorities,  
Office of Production Management, Wash-  
ington, D. C.

(2) Execute an additional copy of this  
Order for each supplier to whose deliv-  
eries said preference rating is to be ap-  
plied, which copy must, in all cases, in-  
clude an affidavit duly executed by the  
producer, or by the subcontractor, in the  
manner provided at the end of this  
Order; and furnish such additional copy,  
so executed, to each supplier. One such  
copy furnished to a supplier may cover  
deliveries under one or more contracts  
or orders. Whether such contracts or  
orders are placed before or after the ef-  
fective date of this Order, the producer  
or related subcontractor shall specifically  
indicate those deliveries to which said  
preference rating is being applied.

(e) Each producer or subcontractor  
who has applied this rating shall:

(1) Maintain accurate records con-  
cerning inventories and stocks on hand  
and orders and contracts on books, and  
concerning all extensions of said pref-  
erence rating pursuant to this Order, in-  
cluding the name and address of each  
supplier and the kinds and quantities  
of material covered by such preference  
rating extensions and dates of delivery  
of said material.

(2) Furnish, upon request, informa-  
tion with respect to matters covered by  
paragraph (e) (1) hereof, and with re-  
spect to any other matters pertinent to  
the administration of priorities, which  
is required by the Priorities Division.  
Until further Order, the producer or  
any rated subcontractor shall, by the  
15th day of each month, transmit a duly  
executed Form PD-42, attached hereto,  
covering deliveries to which the rating  
assigned hereby was applied during the  
next preceding month; or, *in the alter-*  
*native*, the producer or rated subcon-  
tractor shall, by the 15th day of each  
month, transmit to the Priorities Divi-  
sion copies of all purchase orders cover-  
ing deliveries to which said preference  
rating has been applied in the next pre-  
ceding month, which orders or contracts  
*have not been reported* on Form PD-42:  
*Provided, however, That such purchase*  
*orders contain at least the following in-*  
*formation: Vendor's name; the descrip-*  
*tion, unit quantities and dollar value of*  
*the material ordered, and the date of*  
*actual or scheduled delivery thereof.*  
Such purchase orders shall be accom-



panied by a duly executed copy of Form PD-42a,<sup>1</sup> attached hereto.

(3) Submit, from time to time, on request, to an audit and inspection by representatives of the Priorities Division with respect to any of the matters referred to in paragraph (e) (1) and (e) (2) hereof or to such other audits and inspections as are deemed appropriate by the Director of Priorities.

(4) Make deliveries of his products or parts in accordance with directions, if any, by the Director of Priorities.

(f) Any supplier to whose deliveries the rating assigned hereby has been applied shall make all deliveries in accordance with the following directions:

(1) Preference ratings are in order of precedence, AA, A-1-a, A-1-b \* \* \* A-1-j; A-2, A-3, etc., A-10, AA being the highest rating presently assigned.

(2) Deliveries under contracts or orders bearing no preference rating or a lower preference rating shall, if necessary, be subordinated in order to make delivery under contracts or orders bearing a higher preference rating, upon the delivery dates specified in such contracts or orders. The sequence of deliveries under contracts or orders bearing the same preference rating shall be governed by the delivery dates specified in such contracts or orders.

(3) When there is doubt as to whether a particular contract or order is a Defense Order, the matter shall, before any action is taken thereon, be referred to the Director of Priorities, with a statement of all pertinent facts, for his determination.

(4) Preference ratings may have been, or may be, specifically assigned by the Director of Priorities to deliveries under contracts or orders placed with suppliers, or other specific directions may be issued by said Director with respect to such deliveries. In the absence of such ratings or directions, and until further Order, deliveries may be made by the supplier under contracts or orders which have not been assigned preference ratings, subject, however, to the requirements of paragraph (f) (2) hereof.

(g) This Order, the assignment of said preference rating and any specific extensions hereunder, may be revoked, or modified, by the Director of Priorities at any time. After any revocation, or upon the expiration, of this Order and of the assignment of said preference rating hereunder, all existing extensions, unless specifically revoked or modified, shall continue until deliveries of the material covered thereby shall have been made, but no additional application of the preference rating hereunder shall thereafter be made.

(h) This Order, and the assignment of said preference rating hereunder, shall take effect on the 1st day of July 1941, and, unless sooner revoked, shall expire on the 30th day of September 1941. (O.P.M. Reg. 3, March 7, 1941, 6 F.R.

1596; E.O. 8629, January 7, 1941, 6 F.R. 191; Sec. 2 (a), Public, No. 671, 76th Congress.)

Issued this 30th day of June 1941.

E. R. STETTINIUS, JR.,  
Director of Priorities.

#### Exhibit A to Preference Rating Order No. P-11

Motors and other electrical equipment.  
Alloy steels in bars, forgings, castings and tubes.

Iron, steel, and aluminum castings.  
Machine parts and equipment.  
Cutting tools, including cemented carbides.

Abrasives.  
Measuring instruments and gages.  
Brass, copper, and steel tubing and fittings.  
Oil resisting hose.

#### Foundry Supplies Consisting of

Steel Rail and Other Steel Scrap.

Silvery Pig Iron.

Regular Pig Iron.

Coke.

Ferro-Silicon.

Ferro-Manganese.

Vanadium.

Nickel, Molybdenum, Chromium.

Other material may be added to this list if evidence presented to the Director of Priorities indicates that such addition would be in the interests of national defense.

#### ACCEPTANCE

For execution by the Producer or Subcontractor:

The undersigned acknowledges receipt of the above Order and agrees to comply with and fulfill its terms, conditions, and requirements.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 1941.

Name of producer or subcontractor  
(Strike out "Producer" or "Subcontractor", whichever is inapplicable.)

By \_\_\_\_\_  
Authorized officer or individual

#### AFFIDAVIT

STATE OF \_\_\_\_\_,  
County of \_\_\_\_\_,

\_\_\_\_\_, being duly sworn deposes and says that he is the \_\_\_\_\_ of the \_\_\_\_\_ and that on the \_\_\_\_\_ day of \_\_\_\_\_, 1941, he executed a copy of the above Order on behalf of said company, and transmitted said executed copy to the Director of Priorities, Office of Production Management, Washington, D. C., and that he was duly authorized by the aforesaid company to execute said copy of the above Order on behalf of the said company and transmit the same to the Director of Priorities. The preference rating assigned by said Order was applied to deliveries by said company by \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 1941. (Any rated subcontractor should, on the last blank line, fill in the name of the company which applied the rating assigned by Preference Rating Order No. P-11 to deliveries by said subcontractor. This line should not be filled in by the producer.)

Authorized officer or individual  
Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 1941

Notary Public  
My commission expires \_\_\_\_\_ day of \_\_\_\_\_, 1941.

NOTE: Additional copies of this Order may be secured from the Tools & Equipment Group, Division of Priorities, or from the pro-

ducer. The producer, or subcontractor, should, whenever possible, furnish unexecuted copies of this Order to his suppliers who will wish to apply the rating assigned hereby to material to be delivered to said suppliers.

[F. R. Doc. 41-4711; Filed, July 1, 1941; 3:01 p. m.]

#### CHAPTER XI—OFFICE OF PRICE ADMINISTRATION AND CIVILIAN SUPPLY

#### PART 1317—MATERIAL AND EQUIPMENT FOR THE CONSTRUCTION AND REPAIR OF MA- CHINERY FOR THE CANNING INDUSTRY

##### CIVILIAN ALLOCATION PROGRAM

At the present time there is an urgent need for material and equipment necessary for the construction and repair of machinery for the canning industry. There is insufficient machinery to can this year's perishable vegetable and fruit crop, which will result in the loss of a portion of this year's crops unless prompt measures are taken to remedy the shortage. It is necessary, therefore, allocate sufficient material and equipment to the construction and repair of canning machinery to meet the present emergency.

Accordingly, pursuant to and under the authority vested in me by Executive Order No. 8734, particularly section 2 (a) thereof, the following program for allocation of material and equipment necessary for the construction and repair of canning machinery is announced:

§ 1317.1 *Emergency allocation of material and equipment for the construction and repair of machinery for the canning industry.* Deliveries of equipment and material now on the Priorities Critical List which are necessary for the construction and repair of machinery to be used in the preparation, processing, filling, labeling, closing and packaging of this year's fruit and vegetable crops shall be given an emergency preference rating effective for obtaining such material and equipment to the extent determined by the Office of Production Management to be consistent with the defense program: *Provided, however,* That the manufacturer of the machinery has on hand orders calling for its delivery on or before August 1, 1941, and the machinery is to be actually shipped not later than August 15, 1941.\*

\* §§ 1317.1 to 1317.3, inclusive, issued pursuant to the authority contained in Executive Order No. 8734.

§ 1317.2 *Prohibition against excessive inventories.* Allocations made under this program shall not be used to accumulate excessive inventories, or to replace parts still serviceable.\*

§ 1317.3 *Administration, enforcement and limitation.* This program shall be administered, enforced and limited by the Office of Production Management.\*

Issued this 1st day of July 1941.

LEON HENDERSON,  
Administrator.

[F. R. Doc. 41-4740; Filed, July 2, 1941; 11:50 a. m.]

<sup>1</sup> Filed as a part of the original document.



## TITLE 43—PUBLIC LANDS

## CHAPTER III—GRAZING SERVICE

## PART 502—LIST OF ORDERS CREATING OR MODIFYING GRAZING DISTRICTS

ORDER ESTABLISHING GRAZING DISTRICT NO. 1  
AND MODIFYING GRAZING DISTRICT NO. 2 IN  
THE STATE OF NEW MEXICO

## Correction

The description "50°20' E., 5.50 chs." appearing in the twenty-first line from the bottom of the second column on page 3040 of the issue for Saturday, June 21, 1941, should read "52°20' E., 5.50 chs."

## Notices

## WAR DEPARTMENT.

[Contract No. W 535 ac-15804; 3716]

SUMMARY OF CONTRACT FOR SUPPLIES<sup>1</sup>

CONTRACTOR: THE LEECE-NEVILLE COMPANY

Contract for: Panel Assemblies, Generator Assemblies, Regulators, Relay Switches and Data.

Amount: \$934,389.00.

Place: Materiel Division, Air Corps, U. S. Army, Wright Field, Dayton, Ohio.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the Procurement Authorities listed below, the available balances of which are sufficient to cover cost of same.

AC 32 P 12-3037 A 0705.003-01

AC 28 P 82-3037 A 0705-01

AC 30 P 85-3059 A 0705-01

This contract, entered into this 23rd day of October 1940.

**Scope of this contract.** The contractor shall furnish and deliver \* \* \* panel assemblies, generator assemblies, regulators, relay switches and data for the consideration stated nine hundred thirty four thousand three hundred eighty nine dollars (\$934,389.00), in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

**Changes.** Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

**Delays—Damages.** If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

<sup>1</sup> Approved by the Assistant Secretary of War November 2, 1940.

**Payments.** The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either \$1,000 or 50 percent of the total amount of the contract.

**Options.** (1) The Government is granted the right and option at any time within \* \* \* days after date of approval of this contract to increase the quantity or quantities of the articles called for under Items 1 to 8 inclusive of Article 16 hereof to any quantity set forth herein, and in the event of the exercise of this option the unit price of each article furnished under the terms of any item or items, not exceeding the maximum quantity hereinbelow set forth for such item or items, shall be the unit price specified hereinbelow for the total quantity of such item or items to be purchased.

(2) The Government is granted the further right and option at any time during the life of this contract to increase the quantity or quantities of the articles called for under paragraph (1) of Article 16 hereof at not more than the unit prices stated by any amount that would not exceed \* \* \* percent of the entire contract price stipulated, said increase to be applied as to all or any item or items at the option of the Government.

**Termination when contractor not in default.** If, in the opinion of the Contracting Officer upon the approval of The Secretary of War, the best interests of the Government so require, this contract may be terminated by the Government, even though the contractor be not in default, by a notice in writing relative thereto from the Contracting Officer to the contractor.

Change No. 1 to Contract No. W 535 ac-15804<sup>2</sup>

To: The Leece-Neville Company, 5363 Hamilton Avenue, Cleveland, Ohio.

Subject: Additional Panel Assemblies, Generator Assys., Regulators and Relay Switches.

Affecting: Contract W 535 ac-15804.

The Government hereby elects to exercise its right and option contained in Paragraphs (1) and (2) Article 21 of Contract W 535 ac-15804 to increase the quantity of Panel Assemblies, Generator Assemblies, Regulators and Relay Switches called for under Article 16 of the Contract, and it is mutually understood and agreed by the parties hereto that so much of the provisions of the Contract as are affected by said increases are changed as set forth hereinbelow:

<sup>2</sup> Approved by the Under Secretary of War March 3, 1941.

a. The quantity of Panel Assemblies, \* \* \*, is hereby increased from \* \* \* to \* \* \*, total for additional assemblies, \$86,532.00.

b. The quantity of Generator Assemblies, \* \* \*, is hereby increased from \* \* \* to \* \* \*, total for additional assemblies, \$1,482,650.00.

d. The quantity of Regulators, \* \* \*, is hereby increased from \* \* \* to \* \* \*, total for additional regulators, \$89,478.00.

e. The quantity of Switches, relay, \* \* \*, is hereby increased from \* \* \* to \* \* \*, total for additional switches, \$14,625.00.

Total \$1,673,285.00.

As the result of increasing the quantity as set forth hereinabove, the unit price of said articles originally called for under the terms of Article 16 of the contract is hereby reduced, Total Credit \$77,856.50.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in and are chargeable to Procurement Authorities

Debit AC 26 P 81-3037 A 0705-01.

Debit AC 34 P 12-3037 A 0705-01.

Debit AC 30 P 85-3059 A 0705-01.

Debit AC 28 P 82-3037 A 0705-01, total \$1,673,285.00.

Credit AC 28 P 82-3037 A 0705-01.

Credit AC 32 P 12-3037 A 0705.003-01, total \$77,856.50.

This contract authorized under the provisions of the Act of March 5, 1940.

FRANK W. BULLOCK,

Major, Signal Corps,

Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 41-4719; Filed, July 2, 1941; 10:38 a. m.]

[Contract No. W-740-ORD-1]

SUMMARY OF CONTRACT FOR SUPPLIES<sup>1</sup>

CONTRACTOR: BUFFALO ARMS CORPORATION

Contract for: Machine guns, \* \* \*.

Amount: \$18,464,642.22.

Place: Rochester Ordnance District, 1238 Mercantile Building, Rochester, New York.

Items to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to Procurement Authority ORD 50,095 P024-30 A 0020-13 the available balance of which is sufficient to cover cost of same.

This contract, entered into this 9th day of June 1941.

**Scope of this contract.** The contractor shall furnish and deliver \* \* \* Guns, \* \* \*, for the consideration stated eighteen million, four hundred sixty-four thousand, six hundred forty-two dollars and twenty-two cents (\$18,464,642.22) in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

<sup>1</sup> Approved by the Under Secretary of War June 13, 1941.



**Defense Plant Corporation lease rental.** The consideration stated above of eighteen million, four hundred sixty-four thousand, six hundred forty-two dollars and twenty-two cents (\$18,464,642.22), includes \* \* \* rent payable by the Contractor.

**Changes.** Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the Contracting Officer may at any time, by a written order and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

**Delays—Damages.** If the Contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the Contractor to proceed with deliveries on such part or parts thereof as to which there has been delay.

**Additional security.** The Contractor must promptly furnish such bonded security as may be required from time to time to protect the interests of the Government and of persons supplying labor or materials in the prosecution of the work contemplated by the contract.

**Quantities.** The Government reserves the right to increase the quantity on this contract by as much as \* \* \* % and at a price proportionate to that specified in Article 1, subject to price adjustments specified in Article 28, such option to be exercised within \* \* \* days from date of this contract.

**Termination when contractor not in default.** This contract is subject to termination by the Government at any time as its interests may require.

**Payments.** The Contractor shall be paid from time to time upon the submission of properly certified invoices or vouchers the pro-rata portion of the contract price, subject to adjustments as provided in Article 28, for all guns and spare parts therefor, which may be delivered and accepted by the Government, less deductions, if any, as provided for in this contract. Partial payments may also be made from time to time as provided for in Article 26.

**Advance payments.** (a) At any time and from time to time, after the approval of this contract, at the request of the Contractor and subject to the approval of the Chief of Ordnance, as to the necessity therefor, the Government shall advance to the Contractor, without payment of interest therefor by the Contractor, sums not to exceed \$5,300,000.00, or thirty per centum (30%) of the contract price.

(b) As a condition precedent to the making of any advance payment or payments as hereinbefore provided, the Contractor shall furnish the Govern-

ment with such surety bond or bonds or other adequate security as The Secretary of War shall prescribe.

**Partial payments.** The Contracting Officer shall, upon written request of the Contractor, provide partial payments from time to time to the Contractor upon any of the work for which this contract is made; provided that such partial payments shall not exceed \* \* \* % of the cost to the Contractor of the articles upon which payment is made.

**Title to property.** The title to all property upon which any partial payment is made prior to completion of contract, shall vest in the Government in its then condition forthwith upon the making of any such partial payment or payments.

**Price adjustments.** The contract price stated herein is subject to adjustment for increases or decreases in the cost of labor and materials.

**Use of Government owned facilities.** It is understood that this contract is predicated upon the use of Defense Plant Corporation facilities and machine tools leased by the Contractor from the United States Government.

(This contract is authorized by the Act of July 2, 1940, Public, No. 703—76th Congress.)

FRANK W. BULLOCK,  
Major, Signal Corps,  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 41-4718; Filed, July 2, 1941;  
10:38 a. m.]

[Contract No. W-ORD-487 Supp. 1]

**SUMMARY OF SUPPLEMENTAL CONTRACT TO  
COST-PLUS-A-FIXED-FEE ARCHITECTURAL  
AND ENGINEERING SERVICES, EQUIPMENT  
AND OPERATION CONTRACT**

CONTRACTOR: DAY AND ZIMMERMAN, INC.,  
PHILADELPHIA, PENNSYLVANIA

**Fixed-fee:** For architectural and engineering services, including supervision of plant construction, under Title I: Original, \$58,932.00; additional, \$17,913.00.

**Fixed-fee:** For designing, procuring and supervising installation of equipment under Title II: Original, \$51,488.00; additional, \$17,528.00.

**Fixed-fee:** For preparation for operation and operation of the plant under Title IV: Original, \$720,000.00; additional (optional), \$6,078.00 per month.

**Contract for:** Supplemental contract to increase capacity of plant provided for in original contract W-ORD-487.

**Place:** Near Burlington, Iowa.

**Estimated total cost of the Plant described in Title I, exclusive of cost of equipment to be procured under Title II:** Original, \$9,822,000.00; additional, \$3,848,365.00.

<sup>1</sup> Approved by the Under Secretary of War June 16, 1941.

**Estimated total cost of designing, procuring and supervising installation of equipment under Title II:** Original, \$3,893,000.00; additional, \$1,461,190.00.

**Estimated cost of preparation for operation and operation under Title IV:** Original, \$29,697,964.00; additional (optional), \$369,000.00 per month.

The equipment, supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following Procurement Authorities, the available balances of which are sufficient to cover the cost of same:

ORD 7659-P99 A0141-02  
ORD 6966-P11 0270 A 1005-01  
ORD 8300-P11 3052 A 1005-01  
ORD 7660-P99 A0141-02  
ORD 8011-P11 3052 A 1005-01

This supplemental contract, entered into this 12th day of June, 1941.

There is now in force between the parties hereto a certain contract identified by the Government as "Contract No. W-ORD-487" which provides for "Architectural and engineering services, covering supervision of construction; designing, procuring and supervising installation of equipment for; and operating a plant for the loading of fixed rounds, shells, bombs, fuzes, and boosters, etc.," said contract having been approved November 6, 1940, and being hereinafter sometimes referred to as the "original contract".

The parties hereto do mutually agree that the said original contract shall be and it is hereby modified in the following particulars:

1. Change Article I-A of Title I (page 3) to read:

The construction project (hereinafter referred to as the "Plant") shall comprise a Plant near Burlington, Iowa, for the loading of Fixed Rounds, Shells, Bombs, Boosters, \* \* \* Elements, \* \* \*, and Fuzes, (hereinafter sometimes referred to as the "ammunition").

2. Change Article I-D of Title 1 (page 5) to read:

It is estimated (as of November 6, 1940) that the total cost of that part of the Plant as provided for in the original contract, except the cost of procuring manufacturing and service equipment therefor provided for in Title II, herein, is nine million eight hundred twenty-two thousand dollars (\$9,822,000.00) exclusive of the Contractor's fee. It is estimated (as of the date of this Supplemental agreement) that the total cost of that part of the Plant provided for in this supplemental contract, except the cost of procuring manufacturing and service equipment therefor provided for in Title II hereof, is three million eight hundred forty eight thousand three hundred sixty five dollars (\$3,848,365.00) exclusive of the Contractor's fee.



3. Change paragraph a. Section 1 of Article I-E of Title I (page 5) to read:

A fixed-fee in the amount of Seventy Six Thousand Eight Hundred Forty Five Dollars (\$76,845.00) which shall constitute complete compensation for the Contractor's services.

4. Change Article II-B of Title II (page 8) to read:

It is estimated (as of November 6, 1940) that the total cost of the Contractor's performance under Title II of this contract in connection with that part of the Plant as provided for in the original contract will be approximately three million eight hundred ninety-three thousand dollars (\$3,893,000.00) exclusive of the Contractor's fee. It is estimated (as of the date of this supplemental agreement) that the total cost of the Contractor's performance under Title II of this contract in connection with that additional part of the Plant provided for in this supplemental contract will be approximately one million four hundred sixty-one thousand one hundred ninety dollars (\$1,461,190.00) exclusive of the Contractor's fee.

5. Change Section 2. of Article II-C (page 9) to read:

A fixed-fee of sixty nine thousand and sixteen dollars (\$69,016.00) for performance of the work under this Title II, which fee shall constitute complete compensation for the Contractor's services under this Title II, including profit.

6. Change Article IV-A of Title IV (page 11) to read:

2. As each operating line of the Plant is completed and ready for operation, the Contractor shall proceed to operate it for the loading of Ammunition as directed from time to time by the Contracting Officer, irrespective of whether or not the construction and equipping of the Plant as a whole shall have been completed.

7. Change Article IV-B of Title IV (page 11) to read:

It is estimated that the total cost of the Contractor's performance in operating the original lines under this Title IV (exclusive of operation during the additional \* \* \* period covered by the option for such additional period) will be approximately twenty-nine million, six hundred ninety-seven thousand, nine hundred sixty-four dollars (\$29,697,964.00), exclusive of the Contractor's fee. With respect to the additional lines, if required to be operated by the Contracting Officer as provided in Section 4 of Article IV-A, it is estimated that the total cost of Contractor's performance in operating said additional lines will be three hundred sixty-nine thousand dollars (\$369,000.00) per month for each full calendar month of such operation.

8. Change Article IV-C of Title IV (page 12) to read:

In consideration for its undertaking under this Title IV the Contractor shall receive the following:

1. Reimbursement for expenditures as provided in Title V.

2. A fixed-fee of seven hundred twenty thousand dollars (\$720,000.00) for performance of the work under Title IV of the original contract (exclusive of the fee for operation during the additional period of \* \* \* covered by the option for such additional period), which fee shall constitute complete compensation for the Contractor's services (except services for the additional period covered by the said option) under such Title, including profit.

3. A fixed-fee for the initial operation of the additional lines (exclusive of operation during the additional \* \* \* period covered by the option for such additional period) of six thousand seventy-eight dollars (\$6,078.00) for each calendar month of such operation.

The fixed-fee for operation of the additional lines in a period or periods of less than a full calendar month shall be the appropriate proportion of the applicable monthly rate.

10. Change Sections 2 and 3 of Article V-B of Title V (page 17) to read:

2. Fifty-one thousand four hundred eighty eight dollars (\$51,488.00) of the fixed-fee provided in Article II-C of Title II shall be paid in eight (8) equal monthly installments of six thousand four hundred thirty six dollars (\$6,436.00) each and seventeen thousand five hundred twenty eight dollars (\$17,528.00) of said fixed-fee shall be paid in four (4) equal monthly installments of four thousand three hundred eighty two dollars (\$4,382.00).

3. a. The fixed-fee of seven hundred twenty thousand dollars (\$720,000.00) provided for in Section 2 of Article IV-C of Title IV shall be paid as follows:

(1) One hundred sixty thousand dollars (\$160,000.00) payable in six (6) installments of twenty-six thousand six hundred sixty-six dollars and sixty-six cents (\$26,666.66) each.

(2) Eighty thousand dollars (\$80,000.00) payable in three (3) monthly installments of twenty-six thousand six hundred sixty-six dollars and sixty-six cents (\$26,666.66) each.

(3) Four hundred eighty thousand dollars (\$480,000.00) payable in twelve (12) monthly installments of forty thousand dollars (\$40,000.00) each.

b. The fixed-fee for initial operation of the additional lines, as provided for in Section 3 of Article IV-C of Title IV, shall be paid on the last day of each calendar month of the said initial operation, if any. Proportionate payments for periods of less than a full calendar month shall be made on the last day of the particular calendar month.

12. Except as herein specifically provided, the terms and conditions of the original contract of November 6, 1940, shall continue in full force and effect.

This contract is authorized by the Act of July 2, 1940, (Pub. 703, 76th Congress).

FRANK W. BULLOCK,  
Major, Signal Corps,  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 41-4720; Filed, July 2, 1941;  
10:38 a. m.]

## DEPARTMENT OF THE INTERIOR.

### Bituminous Coal Division.

[Docket No. 1636-FD]

IN THE MATTER OF D. H. HERRON,  
DEFENDANT

### CEASE AND DESIST ORDER

A complaint dated March 28, 1941, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on March 29, 1941, by Bituminous Coal Producers Board for District No. 8, a District Board complainant, with the Bituminous Coal Division alleging wilful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder, as follows:

By selling on or about November 21, 1940, to J. M. Wolfe, Appalachia, Virginia, approximately 3½ tons of Size Group 1 coal produced by the defendant at his Herron Mine, Mine Index No. 2164, District No. 8, at a price of \$2.00 per ton f. o. b. the mine, the applicable effective minimum price established for said coal being \$2.95 per ton f. o. b. the mine.

The defendant having by stipulation made June 9, 1941, a true copy of which is annexed hereto and made a part hereof, admitted the truth of the allegations of said complaint and consented to the making and entry of this order:

*It is ordered,* That the defendant, its (or his) officers, representatives, agents, servants, employees, and attorneys, and all persons acting or claiming to act in its (or his) behalf or interest, cease and desist and they hereby are permanently enjoined and restrained from selling coal produced by the defendant at less than the applicable effective minimum prices established therefor.

*It is further ordered,* That the Division in its discretion may apply to the Circuit Court of Appeals of the United States within any circuit where such defendant resides and carries on business for the enforcement hereof.

Dated: July 1, 1941.

[SEAL]

DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-4712; Filed, July 2, 1941;  
10:23 a. m.]



[Docket No. A-895]

**PETITION OF DISTRICT BOARD NO. 14 FOR REVISION OF THE EFFECTIVE PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR CERTAIN COALS AND FOR THE ESTABLISHMENT OF ADDITIONAL PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR CERTAIN OTHER COALS PRODUCED IN SUBDISTRICT 5 OF DISTRICT NO. 14**

**NOTICE OF AND ORDER FOR HEARING**

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

*It is ordered*, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on July 30, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, in the Circuit Court Room, Fort Smith, Arkansas.

*It is further ordered*, That D. C. McCurtain or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions of law and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before July 25, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition of District Board

No. 14 for revision of the effective price classifications and minimum prices for certain coals and for the establishment of additional price classifications and minimum prices for certain other coals produced at the mines of the following named code members in Subdistrict 5 of District No. 14:

Boyd-Sicard Coal Co. (Mine Index No. 14);

Excelsior Thin Vein Coal Co. (Mine Index No. 34);

Harper-Thornton Coal Co. (Mine Index No. 195);

Peerless Coal Company (Mine Index No. 176); and

Watson Excelsior Coal Co. (Mine Index No. 2).

Dated: July 1, 1941.

[SEAL]

DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-4713; Filed, July 2, 1941;  
10:23 a. m.]

[Docket No. A-672]

**PETITION OF DISTRICT BOARD 9, REQUESTING AN INCREASE OF 10 CENTS PER NET TON IN THE EFFECTIVE MINIMUM PRICES ESTABLISHED FOR WASHED COALS IN SIZE GROUPS 1-8 INCLUSIVE, PRODUCED BY ALL CODE MEMBERS IN DISTRICT NO. 9, EXCEPT THE SENTRY COAL MINING COMPANY, MINE INDEX NO. 72, FOR RAIL SHIPMENT INTO ALL MARKET AREAS**

**ORDER FOR DISMISSAL**

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division in the above-entitled matter; and

The original petitioner having moved that the proceedings in the above-entitled matter be dismissed without prejudice, and there having been no opposition thereto;

*Now, therefore, it is ordered*, That the original petition in the above-entitled matter be dismissed without prejudice, and that the proceedings in this Docket be closed.

Dated: July 1, 1941.

[SEAL]

DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-4714; Filed, July 2, 1941;  
10:23 a. m.]

[Docket No. A-907]

**IN THE MATTER OF THE PROPOSED REDUCTION OF THE EFFECTIVE MINIMUM PRICES APPLICABLE TO SALES OR DELIVERIES OF COAL BY WISCONSIN ICE AND COAL COMPANY, A REGISTERED DISTRIBUTOR, TO THE UNITED STATES GOVERNMENT VETERANS ADMINISTRATION FACILITY, WOOD, WISCONSIN**

**ORDER OF DISMISSAL**

This proceeding was instituted by Order of the Director, dated June 14, 1941, pursuant to his authority under

section 4 II (b) of the Act, upon the basis of a request submitted on June 5, 1941, by the Wisconsin Ice and Coal Company. In its request the Wisconsin Ice and Coal Company urged that if the relief it sought were not granted, it would "definitely mean the elimination and loss" to it of business uninterruptedly enjoyed for four years. The Director's Order of June 14, 1941, scheduled a hearing in the above-entitled matter for July 1, 1941. Subsequently, on June 23, 1941, Wisconsin Ice and Coal Company requested that the proceedings in the above-entitled matter be dispensed with, on the ground that "conditions have changed to the extent that warrants our requesting our request for relief be withdrawn".

*Now, therefore, it is ordered*, That the scheduled hearing in the above-entitled matter be canceled, the proceedings therein be dismissed, and the docket be closed.

Dated: June 30, 1941.

[SEAL]

DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-4715; Filed, July 2, 1941;  
10:23 a. m.]

[Docket No. 1490-FD]

**IN THE MATTER OF JOHN W. PATCH,  
DEFENDANT**

**MEMORANDUM OPINION, ORDER OF THE ACTING DIRECTOR APPROVING AND ADOPTING THE PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW OF THE EXAMINER, AND ORDER TO CEASE AND DESIST**

This proceeding was instituted upon a complaint duly filed with the Bituminous Coal Division on December 2, 1940, by Bituminous Coal Producers Board for District 15 pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937; the complaint alleging that John W. Patch, a code member in District 15, the defendant, has wilfully violated the provisions of the Bituminous Coal Code or regulations thereunder, and praying that the Division either cancel and revoke the defendant's code membership, or in its discretion, direct the defendant to cease and desist from violations of the Code and Regulations thereunder.

The defendant operates the Patch Mine (Mine Index No. 881) in Production Group II, Craig County, Oklahoma, in District 15. The complaint alleges that he wilfully violated the provisions of the Bituminous Coal Code and the effective minimum prices, by selling and offering to sell, during October 1940, a substantial quantity of lump size coal (Size Group 2) produced at defendant's mine, to various customers located at Miami, Commerce and Pitcher, Oklahoma, at a price of \$2.80 per ton, which is 50 cents per ton less than the effective minimum f. o. b. mine price established for such coals. The effective minimum prices for the defendant's coals are stated on page 18 of the Schedule of Effective



Minimum Prices for District 15 for Truck Shipment, and the price for his  $\frac{1}{2}$ " up lump coal (Size Group 2) is \$3.30 per ton.

A hearing was held before a duly designated Examiner of the Division, in Kansas City, Missouri, on February 4, 1941. Personal service was made on the defendant of both the complaint and order for and notice of hearing on December 28, 1940. All interested parties were afforded an opportunity to be present at the hearing, adduce evidence, cross-examine witnesses, and otherwise be heard.

Appearances were entered at the hearing for complainant and defendant.

Counsel for the defendant stipulated, that John W. Patch, the defendant, had violated the provisions of the Bituminous Coal Code and the effective minimum prices, by selling and offering for sale from October 1940, through January 1941, 3,480 net tons of lump coal (Size Groups 1 and 2) at prices of \$2.60 and \$2.85 per net ton f. o. b. mine, to various purchasers located at Miami, Pitcher and Commerce, Oklahoma, the established and effective minimum prices for such coals at the time of the sale being \$3.30 per net ton f. o. b. mine.

Counsel for the defendant stipulated further that the defendant is a petitioner in a proceeding instituted pursuant to section 4 II (d) of the Act, Docket No. A-361, in which petitioner seeks a revision of the effective minimum prices applicable to the coals which are the subject of this proceeding, and requests a stay of the imposition of any penalties in this proceeding pending the disposition of Docket No. A-361.

The relief requested by defendant in Docket No. A-361 was granted by Order of the Director dated May 19, 1941, in which Size Groups 1 to 3 (the lump sizes) were reduced to \$2.60 per ton f. o. b. mine. However, this downward revision of prices was not made retroactive.

One of the major questions in this matter is that of whether or not the filing of a petition, pursuant to section 4 II (d) of the Act, for revision of the established and effective minimum prices ameliorates a violation of the Code which occurred prior to the filing of the petition.

Section 4 II (d) of the Act clearly outlines the procedure to be pursued by a code member dissatisfied with the effective minimum prices as established by the Division for his coals. Section 4 II (e) prohibits the sale or delivery of coal at a price below the established minimum. Section 5 (b) prescribes the procedure for the enforcement of violations. The plain language of these sections of the Act, when read together, leaves no room for doubt that a code member cannot oust the jurisdiction of the Division from hearing a violation complaint and impose the penalty contemplated therefor by the Act, by filing a petition for reduction of minimum prices for his coals. To entertain any other interpretation of these sections of the Act would in effect invite

all producers to violate the established minimum price regulations and thereafter, perhaps not until their violations were uncovered, file a 4 II (d) petition, and then claim immunity from penalty because of the pendency of a petition for a revision of the minimum prices. The Congress never intended such a practice nor will the Director tolerate it. A sale below the prescribed minimum price in force at the time of the sale constitutes a violation of the Act; subsequent revision of prices does not excuse earlier violations.

The Examiner, having made proposed Findings of Fact and Conclusions of Law in this matter, dated May 19, 1941; and

An opportunity having been afforded to all parties to file exceptions thereto and supporting briefs, and no such exceptions or supporting briefs having been filed; and

The Acting Director having determined that the proposed Findings of Fact and Conclusions of Law of the Examiner should be approved and adopted as the Findings of Fact and Conclusions of Law of the Acting Director:

*It is, therefore, ordered,* That the proposed Findings of Fact and Conclusions of Law of the Examiner be, and the same are hereby approved and adopted as the Findings of Fact and Conclusions of Law of the Acting Director; and

*It is further ordered,* That the defendant, his representatives, agents, servants, employees and attorneys and all persons acting or claiming to act in his behalf or interest, cease and desist and they are hereby permanently enjoined and restrained from violating the Provisions of section 4 II (e) of the Act; the Schedule of Effective Minimum Prices for District 15 for Truck Shipment; the Marketing Rules and Regulations; and the Bituminous Coal Code.

*It is further ordered,* That the Division may forthwith and without the requirement of any intervening violation by the defendant apply to the Circuit Court of Appeals of the United States within any circuit where such defendant resides or carries on business, or the United States Circuit Court of Appeals for the District of Columbia, for the enforcement hereof.

Dated: July 1, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-4716; Filed, July 2, 1941;  
10:24 a. m.]

#### DEPARTMENT OF AGRICULTURE.

##### Rural Electrification Administration.

[Administrative Order No. 604]

##### AMENDMENTS OF ALLOCATIONS

JUNE 28, 1941.

I hereby amend:

(a) Administrative Order No. 565, dated March 17, 1941, by rescinding the allocation of \$2,500 therein made for "Maine 1014A1 St. Johns;"

(b) Administrative Order No. 533, dated November 5, 1940, by rescinding the allocation of \$8,000 therein made for "Ohio 1093W1 Washington."

[SEAL] HARRY SLATTERY,  
Administrator.

[F. R. Doc. 41-4733; Filed, July 2, 1941;  
11:41 a. m.]

#### Surplus Marketing Administration.

[Docket No. AO 23-A 2-RO 1]

NOTICE OF REOPENING OF THE HEARING WITH RESPECT TO A PROPOSAL TO AMEND THE TENTATIVELY APPROVED MARKETING AGREEMENT, AS AMENDED, AND ORDER NO. 13, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE KANSAS CITY, MISSOURI, MARKETING AREA

Notice is hereby given that the hearing with respect to a proposal to amend the tentatively approved marketing agreement, as amended, and Order No. 13, as amended, regulating the handling of milk in the Kansas City, Missouri, marketing area, will be reopened on July 7, 1941, at 10:00 a. m., c. s. t., in Room 664, U. S. Court House, 811 Grand Avenue, Kansas City, Missouri.

This notice is given pursuant to the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, and of the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture.

This public hearing is for the purpose of receiving additional evidence concerning the proposed amendments considered at the former hearing, and, in addition thereto, proposals to (1) amend the order so as to provide for a Class I price of \$2.55 per hundredweight and a Class II price of \$2.30 per hundredweight, (2) revise the price formula for Class III milk, (3) revise the provision relating to sales outside the marketing area, (4) revise the butterfat differential, and (5) revise the provision relating to location differentials.

Copies of the proposed amendments may be obtained from the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C., in Room 0310 South Building, or may be there inspected.

[SEAL] PAUL H. APPLEBY,  
Under Secretary of Agriculture.

Dated: July 2, 1941.

[F. R. Doc. 41-4736; Filed, July 2, 1941;  
11:41 a. m.]

[Docket No. AO 122-A 1]

NOTICE OF HEARING WITH RESPECT TO A PROPOSAL TO AMEND THE TENTATIVELY APPROVED MARKETING AGREEMENT AND ORDER NO. 48, REGULATING THE HANDLING OF MILK IN THE SIOUX CITY, IOWA, MARKETING AREA

Notice is hereby given of a hearing to be held at the United States Post Office



Building, Sioux City, Iowa, beginning at 10:00 a. m., c. s. t., on July 11, 1941, on proposed amendments to the tentatively approved marketing agreement and Order No. 48, regulating the handling of milk in the Sioux City, Iowa, marketing area.

This notice is given pursuant to the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, and of the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture.

Proposed amendments have been submitted by the Sioux City Milk Producers' Cooperative Association, Inc., and this public hearing is for the purpose of receiving evidence with respect to such proposed amendments (1) revising the minimum prices for Class I milk, (2) revising the minimum price for Class II milk and fixing a minimum relationship with the Class III price, and (3) revising the pricing provision relating to milk sold outside the marketing area.

Copies of the proposed amendments may be obtained from the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C., in Room 0310 South Building, or may be there inspected.

[SEAL] PAUL H. APPLEBY,  
Under Secretary of Agriculture.

Dated: July 2, 1941.

[F. R. Doc. 41-4737; Filed, July 2, 1941;  
11:42 a. m.]

[Docket No. AO 86-A 2]

**NOTICE OF HEARING WITH RESPECT TO A PROPOSAL TO AMEND THE TENTATIVELY APPROVED MARKETING AGREEMENT, AS AMENDED, AND ORDER NO. 35, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE OMAHA-COUNCIL BLUFFS MARKETING AREA**

Notice is hereby given of a hearing to be held in the United States Post Office Building, Omaha, Nebraska, beginning at 10:00 a. m., c. s. t., on July 9, 1941, on proposed amendments to the tentatively approved marketing agreement, as amended, and to Order No. 35, as amended, regulating the handling of milk in the Omaha-Council Bluffs marketing area.

This notice is given pursuant to the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, and of the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture.

Proposed amendments have been submitted by the Nebraska-Iowa Non-Stock Cooperative Milk Association, and this public hearing is for the purpose of re-

ceiving evidence with respect to such proposed amendments (1) revising the minimum prices for Class I milk, (2) revising the minimum price for Class II milk and fixing a minimum relationship with the price for Class III milk, (3) revising the minimum price for Class III milk, (4) revising the pricing provision relating to milk sold outside the marketing area, and (5) revising the provision relating to the butterfat differential.

Copies of the proposed amendments may be obtained from the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C., in Room 0310, South Building, or may be there inspected.

[SEAL] PAUL H. APPLEBY,  
Under Secretary of Agriculture.

Dated: July 2, 1941.

[F. R. Doc. 41-4735; Filed, July 2, 1941;  
11:41 a. m.]

[Docket No. AO 127-SO 2]

**NOTICE OF MEETING RELATIVE TO OBTAINING INFORMATION PERTINENT TO DETERMINATION OF SALABLE QUANTITY OF 1941 CROP HOPS PURSUANT TO MARKETING AGREEMENT AND ORDER REGULATING THE HANDLING OF HOPS GROWN IN THE STATES OF OREGON, CALIFORNIA, AND WASHINGTON.**

Notice is hereby given of meeting to be held in the Commercial Hotel, Yakima, Washington, at 9:30 a. m., P. s. t., on July 15, 1941; in the Marion Hotel, Salem, Oregon, at 9:30 a. m., P. s. t., on July 17, 1941; and at 1910 Eye Street, Sacramento, California, in the Control Committee Room of the marketing agreement, as amended, and order, as amended, regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, at 9:30 a. m., P. s. t., on July 19, 1941, for the purpose of obtaining information relative to the maximum quantity of hops produced in 1941 in the States of Oregon, California, and Washington, which should be marketed or transported to market in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect such commerce in hops, in order to effectuate the declared policy of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

This notice is given pursuant to the provisions of the marketing agreement and order regulating the handling of hops grown in the States of Oregon, California, and Washington, effective on and after August 5, 1940, under the applicable provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

This notice shall be published in the FEDERAL REGISTER, and a press release shall be issued regarding the aforesaid meeting.

Done at Washington, D. C., this 2d day of July 1941.

[SEAL] PAUL H. APPLEBY,  
Under Secretary of Agriculture.

[F. R. Doc. 41-4734; Filed, July 2, 1941;  
11:41 a. m.]

**DEPARTMENT OF LABOR.**

**Wage and Hour Division.**

**NOTICE OF CHANGE OF DATE OF HEARING ON MINIMUM WAGE RECOMMENDATION OF INDUSTRY COMMITTEE NO. 28 FOR THE KNITTED AND MEN'S WOVEN UNDERWEAR AND COMMERCIAL KNITTING INDUSTRY**

Whereas, the Administrator of the Wage and Hour Division of the United States Department of Labor, under date of June 21, 1941, (Fed. REG. June 24, 1941) gave notice, pursuant to section 8 of the Fair Labor Standards Act of 1938, that a public hearing would be held on July 9, 1941, for the purpose of taking evidence on the question whether the recommendation of Industry Committee No. 28 for a minimum wage rate of 40 cents an hour in the Knitted and Men's Woven Underwear and Commercial Knitting Industry shall be approved or disapproved; and

Whereas due cause has been shown for the postponement of the date upon which said hearing shall be held;

Now, therefore, notice is hereby given that:

1. The aforesaid hearing on the recommendation of Industry Committee No. 28 for a minimum wage rate of 40 cents an hour in the Knitted and Men's Woven Underwear and Commercial Knitting Industry shall be held at 10:00 A. M. on September 15, 1941, in Room 3229, United States Department of Labor Building, Washington, D. C., before Henry T. Hunt, Esquire, Principal Hearings Examiner of the Wage and Hour Division, U. S. Department of Labor;

2. Any interested person who desires to appear at the aforesaid hearing to offer evidence shall file notice of his intention to appear with the Administrator of the Wage and Hour Division, not later than September 5, 1941, in the manner specified in paragraph V of the aforesaid notice of June 21, 1941.

3. Except as hereinabove expressly modified, the aforesaid notice of June 21, 1941, remains in full force and effect.

Signed at Washington, D. C., this 1 day of July, 1941.

PHILIP B. FLEMING,  
Administrator.

[F. R. Doc. 41-4744; Filed, July 2, 1941;  
11:55 a. m.]



**NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938**

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under section 6 of the Act are issued under section 14 thereof, Part 522 of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) and the Determination and Order or Regulation listed below and published in the FEDERAL REGISTER as here stated.

Apparel Learner Regulations, September 7, 1940 (5 F.R. 3591).

Artificial Flowers and Feathers Learner Regulations, October 24, 1940 (5 F.R. 4203).

Glove Findings and Determination of February 20, 1940, as amended by Administrative Order of September 20 1940 (5 F.R. 3748).

Hosiery Learner Regulations, September 4, 1940 (5 F.R. 3530).

Independent Telephone Learner Regulations, September 27, 1940 (5 F.R. 3829).

Knitted Wear Learner Regulations, October 10, 1940 (5 F.R. 3982).

Millinery Learner Regulations, Custom Made and Popular Priced, August 29, 1940 (5 F.R. 3392, 3393).

Textile Learner Regulations, May 16, 1941 (6 F.R. 2446).

Woolen Learner Regulations, October 30, 1940 (5 F.R. 4302).

The employment of learners under these Certificates is limited to the terms and conditions as to the occupations, learning periods, minimum wage rates, et cetera, specified in the Determination and Order or Regulation for the industry designated above and indicated opposite the employer's name. These Certificates become effective July 3, 1941. The Certificates may be cancelled in the manner provided in the Regulations and as indicated in the Certificates. Any person aggrieved by the issuance of any of these Certificates may seek a review or reconsideration thereof.

**NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS, AND EXPIRATION DATE**

Alco Zander Company, 1027 Callowhill Street, Philadelphia, Pennsylvania; Apparel; Men's Clothing; 2 learners (75% of the applicable hourly minimum wage); July 3, 1942.

B. & O. Manufacturing Company, 16 South Eutaw Street, Baltimore, Maryland; Apparel; Mackinaws & Jackets; 10 percent (75% of the applicable hourly minimum wage); September 25, 1941.

Chicago Rubber Clothing Company, 1501 Albert Street, Racine, Wisconsin; Apparel; Rainwear, Sport Shirts; 10 percent (75% of the applicable hourly minimum wage); October 30, 1941.

Crown Dress Manufacturing Company, 136 Harrison Avenue, Boston,

Massachusetts; Apparel; Cotton House Dresses; 5 learners (75% of the applicable hourly minimum wage); July 3, 1942.

W. H. Dean Company, Park Ridge, New Jersey; Apparel; Aprons, Uniforms; 2 learners (75% of the applicable hourly minimum wage); July 3, 1942.

Eloesser-Heymann Company, 1161 Mission Street, San Francisco, California; Apparel; Coats, Suits, Work Clothing, Pants, Shirts, Water Repellent Clothing; 10 percent (75% of the applicable hourly minimum wage); September 25, 1941.

Mr. David Fenichel, 50 Greene Street, New Haven, Connecticut; Apparel; Men's Single Pants; 5 learners (75% of the applicable hourly minimum wage); July 3, 1942.

Fredericksburg Shirt Company, 404 Willis Street, Fredericksburg, Virginia; Apparel; Cotton Work Shirts; 24 learners (75% of the applicable hourly minimum wage); October 30, 1941.

George Hirsch, Main and Oakford Streets, New Egypt, New Jersey; Apparel; Ladies' Rayon Underwear; 4 learners (75% of the applicable hourly minimum wage); October 30, 1941.

George Hirsch, 2 Fifth Street, Lakewood, New Jersey; Apparel; Ladies' Rayon Underwear; 6 learners (75% of the applicable hourly minimum wage); October 30, 1941.

Kitzis Manufacturing Company, 1222 Boulevard, Bayonne, New Jersey; Apparel; Dresses; 5 learners (75% of the applicable hourly minimum wage); July 3, 1942.

B. L. Klein Dress Company, 210 North Valley Avenue, Olyphant, Pennsylvania; Apparel; Dresses; 5 percent (75% of the applicable hourly minimum wage); June 26, 1942.

Charles Komar and Sons, First Street, South Amboy, New Jersey; Apparel; Ladies' Undergarments; 50 learners (75% of the applicable hourly minimum wage); October 30, 1941.

George Livingston, Inc., 232 North Eleventh Street, Philadelphia, Pennsylvania; Apparel; Ladies' Blouses; 100 learners (75% of the applicable hourly minimum wage); October 30, 1941.

Manchester Novelty Company, 122 Pleasant Street, Fall River, Massachusetts; Apparel; Ladies' Sportswear, Boys' & Youths' Wear; 5 learners (75% of the applicable hourly minimum wage); July 3, 1942.

Milady Brassiere & Corset Company, Inc., 6 East 32nd Street, New York, New York; Apparel; Brassieres & Corsets; 5 learners (75% of the applicable hourly minimum wage); September 25, 1941.

Raritan Manufacturing Company, 284 State Street, Perth Amboy, New Jersey; Apparel; Shirts; 5 percent (75% of the applicable hourly minimum wage); July 3, 1942.

G. Rosen and Son, 180 Central Avenue, Newark, New Jersey; Apparel; Infants' & Children's Outerwear; 2 learners (75% of the applicable hourly minimum wage); July 3, 1942.

Sanlee Frocks, 808 Main Street, Asbury Park, New Jersey; Apparel; Dresses; 5 learners (75% of the applicable hourly minimum wage); July 3, 1942.

Smart Maid Pajama Company, 71 Grand Street, New York, N. Y.; Apparel; Negligees, Pajamas; 5 learners (75% of the applicable hourly minimum wage); September 25, 1941.

United Pants Manufacturing Company, Twenty-sixth and Reed Streets, Philadelphia, Pennsylvania; Apparel; Men's Cotton Rayon Pants, Part Wool; 50 learners (75% of the applicable hourly minimum wage); October 16, 1941.

Willis Hosiery Mills, Inc., Academy Street, Concord, N. C.; Hosiery; Seamless Hosiery; 5 percent; July 3, 1942.

Continental Knitting Mills, 320 West Jackson Boulevard, Chicago, Illinois; Knitted Wear; Sweaters; 3 learners; July 3, 1942.

Algodon Manufacturing Company, Bessemer City, North Carolina; Textile; Yarn; 3 percent; July 3, 1942.

Aponaug Manufacturing Company, Kosciusko, Mississippi; Textile; Cotton Goods; 3 percent; July 3, 1942.

W. R. Goldsborough, Inc., Chelsea Avenue & Greenwich Street, Bethlehem, Pennsylvania; Textile; Yarn and Thread; 5 learners; July 3, 1942.

Greentex Corporation, 120 East Fisher Street, Salisbury, North Carolina; Textile; Chenille Bedspreads; 10 learners; October 16, 1941.

Paragon Textile Company, Eighth Avenue & 25th Street, Altoona, Pennsylvania; Textile; Silk, Rayon, Nylon, Synthetic Throwing; 3 percent; July 3, 1942.

Ruckel Manufacturing Company, 547 Broadway, New York, New York; Textile; Cotton Goods; 2 learners; July 3, 1942.

Stehli & Company, Inc., Marshall & Martha Avenue, Lancaster, Pennsylvania; Textile; Silk & Rayon; 3 percent; July 3, 1942.

White Sulphur Industries, Inc., 110 Mountain Avenue, White Sulphur Springs West Virginia; Textile; Commission Weaving of Ribbons; 3 learners; July 3, 1942.

Grieves Woolen Mills, Sheboygan Falls, Wisconsin; Woolen; Woolen Shirtings; 2 learners; July 3, 1942.

Lacon Woolen Mills, Lacon, Illinois; Woolen; Dress Goods, Government Cloths, Billiard Cloths, Shirting Flannels; 3 percent; July 3, 1942.

Signed at Washington, D. C., this 2d day of July 1941.

GUSTAV PECK,  
Authorized Representative  
of the Administrator.

[F. R. Doc. 41-4742; Filed, July 2, 1941; 11:55 a. m.]

**NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938.**

Notice is hereby given that Special Certificates authorizing the employment



of learners at hourly wages lower than the minimum rate applicable under section 6 of the Act are issued under section 14 thereof and part 522.5 (b) of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) to the employers listed below effective July 3, 1941.

The employment of learners under these Certificates is limited to the terms and conditions as designated opposite the employer's name. These Certificates are issued upon the employers' representations that experienced workers for the learner occupations are not available for employment and that they are actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment. The Certificates may be cancelled in the manner provided for in the Regulations and as indicated on the Certificate. Any person aggrieved by the issuance of these Certificates may seek a review or reconsideration thereof.

NAME, AND ADDRESS OF FIRM, PRODUCT,  
NUMBER OF LEARNERS, LEARNING PERIOD,  
LEARNER WAGE, LEARNER OCCUPATIONS,  
EXPIRATION DATE

Sure-Fit Products Company, Quarry & Hamilton Streets, Darby, Pennsylvania; Mosquito Bars; 10 percent; 8 weeks for any one learner; 25 cents per hour; Sewing Machine Operator; September 11, 1941.

Sure-Fit Products Company, 250 W. River Street, Bethlehem, Pennsylvania; Mosquito Bars; 10 percent; 8 weeks for any one learner; 25 cents per hour; Sewing Machine Operator; September 11, 1941.

Signed at Washington, D. C., this 2d day of July 1941.

GUSTAV PECK,  
Authorized Representative  
of the Administrator.

[F. R. Doc. 41-4743; Filed, July 2, 1941;  
11:55 a. m.]

#### SECURITIES AND EXCHANGE COMMISSION.

[File No. 812-5]

#### IN THE MATTER OF PACIFIC WESTERN OIL CORPORATION

##### NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 1st day of July, A. D. 1941.

Application having been duly filed by the above named applicant for an order of the Commission under and pursuant to the provisions of section 3 (b) (2) of the Investment Company Act of 1940 declaring it to be excepted from the definition of an investment company contained in this Act on the ground that it is primarily engaged in a business other than that of investing, reinvesting, owning, holding, or trading in securities.

It is ordered, That a hearing on the matter of this application be held on

July 22, 1941 at 10:00 o'clock in the forenoon of that day at the Securities and Exchange Building, 1778 Pennsylvania Avenue Northwest, Washington, D. C. On such day the hearing room clerk in Room 1102 will advise the interested parties where such hearing will be held.

It is further ordered, That Charles S. Lobingier, Esquire, or any officer or officers of the Commission designated by it for that purpose shall preside at such hearing on such application. The officer so designated to preside at any such hearing is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42 (b) of the Investment Company Act of 1940 and to trial examiners under the Commission's Rules of Practice.

Notice of such hearing hereby is given to the above named applicant and to any other person or persons whose participation in such proceedings may be in the public interest or for the protection of the investors.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 41-4723; Filed, July 2, 1941;  
11:31 a. m.]

[File No. 812-3]

#### IN THE MATTER OF MISSION CORPORATION

##### NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 1st day of July, A. D. 1941.

Application having been duly filed by the above named applicant for an order of the Commission under and pursuant to the provisions of section 3 (b) (2) of the Investment Company Act of 1940 declaring it to be excepted from the definition of an investment company contained in this Act on the ground that it is primarily engaged in a business other than that of investing, reinvesting, owning, holding, or trading in securities.

It is ordered, That a hearing on the matter of this application be held on July 22, 1941 at 10:00 o'clock in the forenoon of that day at the Securities and Exchange Building, 1778 Pennsylvania Avenue Northwest, Washington, D. C. On such day the hearing room clerk in Room 1102 will advise the interested parties where such hearing will be held.

It is further ordered, That Charles S. Lobingier, Esquire, or any officer or officers of the Commission designated by it for that purpose shall preside at such hearing on such application. The officer so designated to preside at any such hearing is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42 (b) of the Investment Company Act of 1940 and to trial examiners under the Commission's Rules of Practice.

Notice of such hearing hereby is given to the above named applicant and to any

other person or persons whose participation in such proceedings may be in the public interest or for the protection of the investors.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 41-4724; Filed, July 2, 1941;  
11:31 a. m.]

[File No. 812-172]

#### IN THE MATTER OF TRUSCO SHARES, INCORPORATED

##### NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 1st day of July, A. D. 1941.

Trusco Shares, Incorporated, a registered closed-end, non-diversified management investment company, having duly filed an application pursuant to the provisions of sections 6 (c), 8 (b) and 8 (f) of the Investment Company Act of 1940 for an order exempting it from the registration requirements of the Act and for an order finding that it has ceased to be an investment company;

It is ordered, That a hearing on such matter under the applicable provisions of the Act and the rules of the Commission thereunder be held on July 15, 1941, at 10:00 o'clock in the forenoon of that day, in the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in Room 1102 will advise the interested parties where such hearing will be held.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at such hearing on such application. The officer so designated to preside at any such hearing is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42 (b) of the Investment Company Act of 1940 and to trial examiners under the Commission's Rules of Practice.

Notice of such hearing is hereby given to the above-named applicant and to any other person or persons whose participation in such proceedings may be in the public interest or for the protection of investors.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 41-4725; Filed, July 2, 1941;  
11:31 a. m.]

[File No. 31-515]

#### IN THE MATTER OF SOUTHERN SIERRAS POWER OF MEXICO, S. A. AND THE HYDRO-ELECTRIC SECURITIES COMPANY

##### NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its



office in the City of Washington, D. C., on the 1st day of July, A. D. 1941.

A joint application pursuant to the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

*It is ordered*, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on July 23, 1941, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

*It is further ordered*, that Willis E. Monty or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 16, 1941.

The matter concerned herewith is in regard to the application pursuant to Section 3 (b) of Southern Sierras Power of Mexico, S. A. for an exemption as a subsidiary of The Hydro-Electric Securities Company and the application pursuant to the same section of The Hydro-Electric Securities Company for an exemption as a subsidiary of The Nevada-California Electric Corporation.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 41-4726; Filed, July 2, 1941;  
11:31 a. m.]

[File No. 4-17]

IN THE MATTER OF WALSTON & CO., VERNON C. WALSTON, WILLIAM SHERMAN HOELSCHER, CHARLES DE Y. ELKUS, AND CLIFFORD P. HOFFMAN

AMENDED ORDER OF REVOCATION AND  
SUSPENSION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 30th day of June, A. D. 1941.

This matter, after appropriate notice, hearing and argument of counsel, having been duly considered by the Commission, and the Commission having found that the respondent Walston & Co. has willfully violated section 15 of the Securities Exchange Act of 1934 and Rule X-15B-2 adopted thereunder; an order of the Commission having issued on August 2, 1940, directing that the respondents' registration under section 15 (b) be revoked and that the respondents Vernon C. Walston and William Sherman Hoelscher be suspended for a period of six months from membership upon national securities exchanges of which they are members; the respondents having filed, in the United States Circuit Court of Appeals for the Ninth Circuit, a petition to review and set aside that order; the execution of that order having been restrained, pending review, by order of the court, to which the Commission agreed; the respondents having subsequently filed a petition for rehearing, which was granted by the Commission; further evidence having been introduced by the respondents by affidavits; this evidence having been duly considered by the Commission; and the Commission finding that the order in this matter dated August 2, 1940, should be modified; and the Commission being of the opinion that it is necessary and appropriate for the protection of investors to suspend the respondents Vernon C. Walston and William Sherman Hoelscher from membership upon national securities exchanges of which they are members for a period of thirty days; and the Commission finding that revocation of the respondents' registration under section 15 (b) is in the public interest; all as more fully set forth in the Findings and Opinion of the Commission herein;

*It is ordered*, That respondent Vernon C. Walston be suspended from membership on the New York Stock Exchange for a period of thirty days; and

*It is further ordered*, That respondent William Sherman Hoelscher be suspended from membership on the San Francisco Stock Exchange for a period of thirty days; and

*It is further ordered*, That the registration of Walston & Co. pursuant to Section 15 of the Securities Exchange Act of 1934, as amended, be revoked;

*It is further ordered*, That this order shall become effective July 1, 1941; and

*It is further ordered*, That copies of this Order, accompanied by copies of the Findings and Opinion of the Commission herein, be served upon the respondents or their counsel and upon the secretaries of the New York Stock Exchange and the San Francisco Stock Exchange.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 41-4727; Filed, July 2, 1941;  
11:32 a. m.]

[File No. 1-2825]

IN THE MATTER OF THE TROXEL MANUFACTURING COMPANY

ORDER GRANTING APPLICATION FOR WITHDRAWAL FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 1st day of July, A. D. 1941.

Application having been filed pursuant to section 12 (d) of the Securities Exchange Act of 1934 by The Troxel Manufacturing Company to withdraw from listing and registration 75,000 shares of its \$1 par value common stock, and the Commission, on March 5, 1940, having suspended decision upon the said application until further order by the Commission; and

The Troxel Manufacturing Company, on February 24, 1941, having filed an amendment to its application for withdrawal of the said securities from listing and registration; hearings upon the said application having been held, after due notice; a trial examiner's report having been filed; and the Commission having considered the record and being fully advised in the premises, and finding that the application should be granted, as more fully set forth in the Commission's Findings and Opinion in this matter this day issued;

*It is ordered*, That the said application be, and the same hereby is, granted *Provided, however*, That this Order shall not become effective until ten days after the date of entry thereof.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 41-4728; Filed, July 2, 1941;  
11:32 a. m.]

[File No. 70-333]

IN THE MATTER OF ALABAMA POWER COMPANY

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 1st day of July, A. D. 1941.

The above named party having filed a declaration and an amendment thereto pursuant to section 12 of the Public Utility Holding Company Act of 1935, and Rules U-23 and U-45 promulgated thereunder; said filing being concerned with a capital contribution by Alabama Power Company of \$160,000 to, and conversion of the open account as of December 31, 1940 in the amount of \$170,244.83 into an additional investment in the common stock of, Auburn Water Company, a subsidiary, without the issuance of additional shares of common stock; said additional



funds to be used by Auburn Water Company, among other things, for new construction to increase a needed water supply for the City of Auburn, Alabama.

Notice of said filing having been given in the form and manner prescribed by Rule U-23 promulgated pursuant to said Act, and the Commission not having received a request for hearing with respect thereto within the period specified in said notice or otherwise, and not having ordered a hearing thereon;

The Commission deeming it appropriate in the public interests and the interests of investors and consumers to permit said declaration as amended to become effective pursuant to section 12 (b) and said Rule U-45, and finding with respect thereto that the proposed capital contribution is not in contravention of any rules or regulations under said Act regarding the consideration to be received for such capital contribution, fees and commissions, accounts, disclosure of interest and similar matters; and being satisfied that the date of permitting said declaration to become effective should be advanced;

*It is hereby ordered*, Pursuant to said Rule U-23 and the applicable provisions of said Act that subject to the terms and conditions prescribed in Rule U-24 that the aforesaid declaration as amended be, and the same is hereby permitted to become effective forthwith.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 41-4729; Filed, July 2, 1941;  
11:33 a. m.]

[File No. 70-320]

IN THE MATTER OF NEW YORK STATE  
ELECTRIC & GAS CORPORATION

FINAL ORDER

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2d day of July, A. D. 1941.

The Commission, by supplemental order herein dated June 27, 1941, having granted exemption from Rule U-50 with respect to the issuance and sale by the applicant of \$35,393,000 principal amount of first mortgage bonds due 1971 to The Equitable Life Assurance Society at its bid price of 104.015% with coupon rate of 3¼%, conditioned upon the sale by the applicant of its proposed issue of cumulative preferred stock in the amount of 120,000 shares, par value \$100 per share, upon renewal of the competitive bidding with respect thereto in accordance with the terms prescribed in said order; and

The applicant having this day filed its further report herein pursuant to Rule U-50 (c); and

It appearing to the Commission that the applicant duly readvertised for competitive bids with respect to said preferred stock; that bids were duly received

on July 1, 1941 in accordance with the terms of the public notice and the Commission's prior order with respect thereto; that the successful bidder for said preferred stock was a group of underwriters headed by The First Boston Corporation and Glore, Forgan & Company at a price of 100.85% and a coupon rate of 5.10%, representing an annual cost of money to the company of approximately 5.057%; and that the purchasers propose forthwith to sell said preferred stock to the public at a price of 103.50%; and

It further appearing that the applicant has obtained a final order of approval from the Public Service Commission of the State of New York approving the issuance and sale of said bonds and preferred stock to the persons and upon the terms and conditions hereinabove set out; and

It further appearing, with respect to said bonds, that same were purchased by The Equitable Life Assurance Society for investment and not for resale; and, with respect to said preferred stock, that the price to the issuer, the yield, and the price to the public are not unreasonable; and

The Commission deeming it unnecessary to impose further terms and conditions in the public interest or for the protection of investors and consumers with respect to the issuance and sale of said securities;

*It is ordered*, That the application as amended for exemption under section 6(b) of the Holding Company Act with respect to the issuance and sale of the aforesaid securities to the persons and upon the terms and conditions hereinabove set out be and the same is hereby granted; and that the declaration as amended be and the same is hereby permitted to become effective forthwith; subject, however, to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 41-4730; Filed, July 2, 1941;  
11:33 a. m.]

[File No. 70-339]

IN THE MATTER OF NASHVILLE COACH  
COMPANY

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 1st day of July, A. D. 1941.

Notice is hereby given that a declaration or application (or both), has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above named party or parties; and

Notice is further given that any interested person may, not later than July 5, 1941 at 4:30 p. m., E. S. T., or 1:00 p. m. E. S. T., if such date be a Saturday,

request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-23 of the Rules and Regulations promulgated pursuant to said Act or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declaration or application, which is on file in the office of said Commission for a statement of the transactions therein proposed, which are summarized below:

Nashville Coach Company proposes to borrow funds not in excess of \$400,000 from The American National Bank, Nashville, Tennessee, on its unsecured 3% note to be dated July 7, 1941 and maturing July 7, 1942 with the privilege of payment in full or in part at any time.

The proceeds of the new loan will be used to pay two loans with the same bank maturing July 7, 1941 and September 9, 1941, respectively, and to provide the estimated sum of \$110,000 necessary for the purchase of 10 new motor busses to take care of increased business resulting from the national defense program. The company estimates that the full amount of the new loan can be retired from earnings by its maturity.

The company considers section 6 of the Act and Rule U-45 thereunder applicable to the proposed transaction.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 41-4731; Filed, July 2, 1941;  
11:34 a. m.]

[File No. 812-6]

IN THE MATTER OF THE M. A. HANNA  
COMPANY

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 1st day of July, A. D. 1941.

An application having been duly filed by the above named applicant on November 1, 1940 under and pursuant to the provisions of section 3 (b) (2) of the Investment Company Act of 1940, for an order declaring it to be excepted from the provisions of the said Act on the ground that the applicant is primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities; and

The temporary exemption of the applicant from the provisions of said Act



provided by section 3 (b) (2) thereof having been extended to September 2, 1941;

*It is ordered,* That a hearing on the matter of the application of the above named applicant under and pursuant to the provisions of section 3 (b) (2) of the Investment Company Act of 1940 be held on July 18, 1941, at 10 o'clock in the forenoon of that day at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, Northwest, Washington, D. C. On such day

the hearing room clerk in Room 1102 will advise the interested parties where such hearing will be held.

*It is further ordered,* that Charles S. Lobingier, Esq., or any other officer or officers of the Commission designated by it for that purpose shall preside at such hearing on such application. The officer so designated to preside at any such hearing is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42 (b) of the Investment Company Act of 1940 and to

trial examiners under the Commission's Rules of Practice.

Notice of such hearing is hereby given to the above named applicant and to any other person or persons whose participation in such proceedings may be in the public interest or for the protection of investors.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 41-4732; Filed, July 2, 1941;  
11:34 a. m.]



